

<p style="text-align: right;">Page 1</p> <p>1</p> <p>2 COUNTY OF MAUI, STATE OF HAWAII</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 CHARTER COMMISSION</p> <p>8 REGULAR MEETING</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Held at the Planning Department Conference Room,</p> <p>15 250 South High Street, Wailuku, Maui, Hawaii, commencing</p> <p>16 at 10:04 a.m., on Monday, December 12, 2011.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Reported by:</p> <p>21 Tonya McDade, CSR, CRR</p> <p>22 Certified Shorthand Reporters Maui</p> <p>23 Wells Street Professional Center</p> <p>24 2145 Wells Street, Suite 302</p> <p>25 Wailuku, Hawaii 96793</p> <p>(808)244-3376</p> <p>reporters@csrmaui.com</p>	<p style="text-align: right;">Page 3</p> <p>1 (Monday, December 12, 2011, 10:04 a.m.)</p> <p>2 * * *</p> <p>3 VICE-CHAIR HEDANI: The meeting of the Charter</p> <p>4 Commission of Monday, December 12th will come to order.</p> <p>5 We would like to welcome all of you. Our staff people</p> <p>6 are here. Lisa Kahuhu, Supervising Law Technician.</p> <p>7 Tonya McDade, our court reporter. Mike Molina, from the</p> <p>8 Mayor's Office.</p> <p>9 MR. MOLINA: Good morning, Chair.</p> <p>10 VICE-CHAIR HEDANI: Ed Kushi, Corp Counsel.</p> <p>11 From Akaku, we have Steve (sic) and Sable helping us</p> <p>12 today.</p> <p>13 And at this time I'd like to take a moment of</p> <p>14 silence in order to acknowledge the bereavement of</p> <p>15 Professor Jon Van Dyke, Sherry Broder's husband, who</p> <p>16 passed away unexpectedly in Australia.</p> <p>17 (Silence.)</p> <p>18 VICE-CHAIR HEDANI: Thank you.</p> <p>19 Lisa, at this time will you take attendance?</p> <p>20 MS. KAHUHU: Currently, Chair is on his way.</p> <p>21 He is running a little bit late. And Frank De Rego is</p> <p>22 excused.</p> <p>23 VICE-CHAIR HEDANI: Thank you.</p> <p>24 The minutes of the meeting of November 28th,</p> <p>25 all 262 pages, have been circulated to you. Are there</p>
<p style="text-align: right;">Page 2</p> <p>1 ATTENDANCE</p> <p>2 BOARD MEMBERS PRESENT:</p> <p>3 Joshua A. Stone, Chair</p> <p>4 Wayne N. Hedani, Vice-Chair</p> <p>5 Artemio C. Baxa, Member</p> <p>6 Stephanie S. Crivello, Member</p> <p>7 David P. DeLeon, Member</p> <p>8 Frank R. De Rego, Jr., Member</p> <p>9 Clifford P. Hashimoto, Member</p> <p>10 Susan A. Moikeha, Member</p> <p>11 Linda Kay Okamoto, Member</p> <p>12 Yuki Lei Sugimura, Member</p> <p>13 Flo V. Wiger, Member</p> <p>14</p> <p>15 STAFF PRESENT:</p> <p>16 Mr. Edward Kushi, Jr., First Deputy Corporation Counsel</p> <p>17 Lisa Kahuhu, Supervising Law Technician</p> <p>18</p> <p>19 ADMINISTRATION PRESENT:</p> <p>20 Michael Molina, Executive Assistant to the Mayor</p> <p>21 OTHERS PRESENT:</p> <p>22 Jocelyn Perreira</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 any additions, corrections or deletions from the</p> <p>2 minutes?</p> <p>3 (No Response.)</p> <p>4 VICE-CHAIR HEDANI: I have one correction. On</p> <p>5 Page 177, Line 21, the word "sustainable" should read</p> <p>6 "unsustainable." So the sentence would read, "Making</p> <p>7 the cost of living unsustainable on the island."</p> <p>8 Any other corrections to the minutes?</p> <p>9 (No Response.)</p> <p>10 VICE-CHAIR HEDANI: Okay. If not, then will</p> <p>11 someone entertain a motion to approve the minutes as</p> <p>12 corrected?</p> <p>13 COMMISSIONER SUGIMURA: So moved.</p> <p>14 VICE-CHAIR HEDANI: Moved by Yuki.</p> <p>15 COMMISSIONER DELEON: Second.</p> <p>16 VICE-CHAIR HEDANI: Seconded by Commissioner</p> <p>17 DeLeon. All those in favor, signify by saying "aye."</p> <p>18 (A chorus of ayes.)</p> <p>19 VICE-CHAIR HEDANI: Opposed, "nay."</p> <p>20 (No Response.)</p> <p>21 VICE-CHAIR HEDANI: Carried. Thank you.</p> <p>22 Public testimony. Lisa?</p> <p>23 MS. KAHUHU: Chair, no one is currently signed</p> <p>24 up for public testimony.</p> <p>25 VICE-CHAIR HEDANI: There is public testimony.</p>

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<p>1 CHAIR STONE: I have something to say. 2 (Laughter.) 3 CHAIR STONE: "This Charter Commission is a 4 scam." (Laughter.) 5 (Multiple speakers.) 6 (Laughter.) 7 COMMISSIONER: And its leadership. 8 (Laughter.) 9 COMMISSIONER: And you're the leader of the 10 scam. (Laughter.) 11 (Laughter.) 12 CHAIR STONE: Its leadership is clearly, 13 clearly biased. (Laughter.) 14 (Laughter.) 15 VICE-CHAIR HEDANI: I'd like to welcome our 16 Chair, Josh Stone. 17 (Laughter.) 18 CHAIR STONE: Hello, everybody. Thank you, 19 Vice -- 20 VICE-CHAIR HEDANI: But he now owes us 21 refreshments for the next meeting. 22 CHAIR STONE: Woo-hoo. Oh, you know it. Next 23 time. Thank you very much. 24 VICE-CHAIR HEDANI: We now have the Chair. 25 CHAIR STONE: Thanks very much, Vice-Chair</p>	<p>1 that my brother George makes. It's great on steaks. 2 And I owe Mike Molina -- I figured he's my friend, so he 3 would understand why he didn't have one. But I owe -- I 4 owe you one, Mike. I'll bring it to your office. I 5 miscounted. 6 CHAIR STONE: Wow. Thank you so much. 7 COMMISSIONER SUGIMURA: Thank you. 8 CHAIR STONE: That's so sweet. Awesome. 9 Sorry. Let me get caught up to speed. 10 Okay. Well, if there's no objections, we're 11 going to close oral testimony at this time. And, also, 12 without objection, the Chair will accept and file all -- 13 Jocelyn, did you -- did you want to testify today? I'm 14 sorry. 15 MS. PERREIRA: Oh, let me just do one. 16 CHAIR STONE: Okay. So we do have oral 17 testimony today. All right. Jocelyn Perreira, thank 18 you so much for being here today. And happy holidays. 19 ...BEGIN PUBLIC TESTIMONY... 20 MS. PERREIRA: Thank you. Happy holidays to 21 all of you. 22 Our organization is following this process 23 closely. And because it's the holidays coming up, we 24 just want to be able to extend to all of you our deepest 25 appreciation for all the time and careful, thoughtful</p>
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<p>1 Hedani. 2 And happy holidays to everybody. Sorry for 3 being late. 4 VICE-CHAIR HEDANI: We were at public 5 testimony. 6 CHAIR STONE: So, Lisa, do we have anybody 7 signed up for public testimony? 8 MS. KAHUHU: Currently, Chair, no one is 9 signed up. 10 CHAIR STONE: It's a Christmas miracle. 11 (Laughter.) 12 CHAIR STONE: Well, then, I guess we will be 13 moving on to the next order of business. 14 Commissioner Hedani, go ahead. 15 VICE-CHAIR HEDANI: Chairman Stone, I forgot 16 to mention, we would like to acknowledge Commissioner 17 Sugimura for the wonderful gifts that she's presented 18 all of the Commissioners, in order to secure your 19 vote -- 20 (Laughter.) 21 VICE-CHAIR HEDANI: -- on all of her issues. 22 (Laughter.) 23 (Laughter.) 24 COMMISSIONER SUGIMURA: I just wanted to say 25 that the packaging is not cookies; it's Hawaiian salt</p>	<p>1 consideration, and the arguments that each of you has 2 made, pro and con, for whatever issues that have come 3 up. And we look forward to continuing our participation 4 as you do your round -- you make your rounds in the -- 5 in the communities. 6 But thank you very, very much for your 7 service. And we wholeheartedly appreciate it. Aloha. 8 CHAIR STONE: Aloha. Thank you very much, 9 Jocelyn. Thanks for being here. 10 And no further testifiers, Lisa? 11 MS. KAHUHU: No, Chair. 12 CHAIR STONE: Okay. Without objection, at 13 this time the Chair would like to close oral testimony. 14 ...END OF PUBLIC TESTIMONY... 15 CHAIR STONE: And, also, without objection, 16 the Chair will accept and file all public communications 17 for the record. 18 Moving on down the line. We have no new 19 proposed Charter amendments, which, actually, at this 20 stage, is fairly irrelevant. 21 And moving on to Agenda Section IV, Proposed 22 Charter Amendments Active Proposal list. Draft 23 amendment language -- one second. Yes. Okay. That's 24 what we're here for today. Moving on to a review of 25 draft amendment language. And I want to point out to</p>

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1 the Commissioners, we're not changing any of the draft
 2 proposals today, nor debating them, because this is what
 3 the public's gotten sent to them. And because of
 4 Sunshine Law, what we're trying to do today is clarify
 5 as a group our understanding of what the draft proposal
 6 language is. All right? Okay. So moving forward,
 7 moving on to the first --
 8 COMMISSIONER MOIKEHA: Chair, I have a
 9 question.
 10 CHAIR STONE: Yes, Commissioner.
 11 COMMISSIONER MOIKEHA: So when we return after
 12 the public testimony, in January, we'll have a chance to
 13 make amendments at that point in time?
 14 CHAIR STONE: Yes. In fact, to make that even
 15 a little clearer, not only amendments, we may feel that
 16 we want to pull some of these proposals off the table.
 17 So we'll have the ability to go back and look at each
 18 proposal. We'll go one by one and decide whether or not
 19 it's justified to keep it. And if -- you know,
 20 potentially, the proposal could even come off the table.
 21 COMMISSIONER MOIKEHA: Does that also mean
 22 that if we wanted to propose a proposal that wasn't on
 23 the Active List, we could bring it forth at that time,
 24 also?
 25 CHAIR STONE: You know, I need to defer that

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1 to Ed over there because my concern is that we won't be
 2 able to bring that back out to the public.
 3 COMMISSIONER MOIKEHA: But there is public
 4 testimony. It's just that we're not doing --
 5 CHAIR STONE: True. True. Let me just --
 6 let's check with Ed. Ed, what do you think about that?
 7 MR. KUSHI: You mean to bring back something
 8 that was previously --
 9 COMMISSIONER MOIKEHA: Say something was on
 10 the Active List and it didn't get majority votes to come
 11 forth to this list that we're taking to the public.
 12 Could we bring it back when we come back in January and
 13 see maybe then if it could get enough votes?
 14 MR. KUSHI: Yes. My understanding was that
 15 what you -- what you went through was preliminary
 16 amendments.
 17 COMMISSIONER MOIKEHA: Okay.
 18 MR. KUSHI: And nothing was final until you
 19 finalize your final report. However, your rules -- your
 20 rules do state that, you know, whenever this body takes
 21 action, your Robert's Rules, in case of an item that was
 22 taken off the list, Robert's Rules say, unless otherwise
 23 provided by this Commission. You always have the
 24 authority to waive your rules. That a member on the
 25 winning side make a motion to reconsider. So if you

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1 were for an amendment and it was voted down, you
 2 couldn't make that motion to reconsider.
 3 COMMISSIONER MOIKEHA: Okay.
 4 MR. KUSHI: That's my understanding of
 5 parliamentary procedure.
 6 COMMISSIONER MOIKEHA: Okay.
 7 CHAIR STONE: Thank you, Ed. Is that -- is
 8 that clear, Susan?
 9 COMMISSIONER MOIKEHA: Yeah, that is. Thank
 10 you.
 11 CHAIR STONE: Very good.
 12 Okay. Moving forward, first --
 13 COMMISSIONER OKAMOTO: Chair?
 14 CHAIR STONE: Yes. Sorry.
 15 COMMISSIONER OKAMOTO: One further question.
 16 Some of these there are actually questions by, I guess,
 17 Sherry. We're going to try to come up with answers to
 18 those, or are we just leaving it for now or what?
 19 CHAIR STONE: Well, we decided to leave the
 20 questions on there because we thought that might be a
 21 good jumping off point for -- for the public themselves,
 22 but, also, I do think that, as a group, we did -- some
 23 of these questions, as I went through all of these, we
 24 had answers to. So I think, as a group, we probably
 25 should agree that we did know what we were talking

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1 about.
 2 COMMISSIONER OKAMOTO: I bet we did.
 3 CHAIR STONE: So -- so we'll jump in and see
 4 how that rolls out. But, like I said, we don't want to
 5 be changing any of the proposals.
 6 Commissioner DeLeon, did you have a --
 7 COMMISSIONER DELEON: Oh, no. I was pointing
 8 out that Kay wanted to speak.
 9 CHAIR STONE: Commissioner Baxa.
 10 COMMISSIONER BAXA: Yeah. I suppose you have
 11 already answered the question, but I just want to make
 12 it clear. Following the question that Commissioner
 13 Moikeha --
 14 CHAIR STONE: Commissioner Baxa, microphone,
 15 please.
 16 COMMISSIONER BAXA: Following the comments of
 17 Commissioner Moikeha, I just want to be sure that
 18 because these proposed proposals now are going to be
 19 submitted to the meetings starting this afternoon, we
 20 will not be able to change any of the written proposals
 21 right now, but that, at some point, after we have met
 22 with community, if we have some questions -- and in
 23 this, I have one over here -- but we'll still be able to
 24 bring that afterwards, is that my understanding?
 25 CHAIR STONE: You mean after the public

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1 meetings? Yes, absolutely. Of course. I think that's
 2 the whole purpose of these public meetings, is to get
 3 their feedback and answer -- maybe get some of our own
 4 questions answered via the public meetings, and then
 5 formalize our proposals or -- or work further on them.
 6 COMMISSIONER BAXA: Oh, okay.
 7 CHAIR STONE: And make sure that we even want
 8 -- even want the proposals to go out to the voters.
 9 That's even --
 10 COMMISSIONER BAXA: Thank you. Yeah. I just
 11 want to make it clear.
 12 CHAIR STONE: Yes. Absolutely.
 13 COMMISSIONER BAXA: Thank you, Chair.
 14 CHAIR STONE: These are just draft form.
 15 Okay. Very good. Thank you.
 16 Any further discussion before we move on?
 17 Commissioner Hedani.
 18 VICE-CHAIR HEDANI: Along the same lines, in
 19 the communications that we received today, there was one
 20 that came in from Mark Hyde where he's asking us to
 21 consider establishing a firm deadline for the General
 22 Plan. The General Plan is in its 11th year of being
 23 revised. And something like that, that comes up clear
 24 out of the blue, is that something we can still
 25 consider?

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1 CHAIR STONE: That's an interesting question.
 2 Again, I want to have Ed answer that.
 3 Ed, when we get new proposals -- if and when
 4 we get new proposals at this stage, do we have the time
 5 to consider putting together proposals, because we're
 6 not going to be able to take it back to the general
 7 public outreach? Obviously, we have public input at
 8 every one of our meetings, but --
 9 MR. KUSHI: Yes. I say "yes" because, you
 10 know, your deadline is the final report.
 11 CHAIR STONE: Got it.
 12 MR. KUSHI: This procedure, while going out to
 13 the public for feedback, you're in the second round, is
 14 all internal. Your -- it was decided as an internal
 15 procedure. It's not set forth in any statute, ordinance
 16 or rule. So I'd say you would have that discretion.
 17 And like the Chair says, at every meeting, you have
 18 opportunity for public testimony.
 19 CHAIR STONE: Very good. With that said, I
 20 would -- I would understand, Ed, that any of these new
 21 proposals would -- would have to be resolved at normal
 22 business meetings as previously put on the Active
 23 Proposal List and discussed, the same method we had done
 24 previously.
 25 MR. KUSHI: I would say so, as an internal

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1 procedure; however, if you note, that the agenda for all
 2 your public hearings, public meetings --
 3 CHAIR STONE: Uh-huh.
 4 MR. KUSHI: -- we did add on a last agenda
 5 item, Agenda Item III, on each of these public meetings,
 6 review of public testimony, Commission discussion of
 7 public testimony relating to proposed Charter
 8 amendments. So you do have that time during your public
 9 meetings. Again, whether you have enough information
 10 and details, so -- example, following Commissioner
 11 Hedani's situation, if Mr. Hyde would show up at a
 12 public meeting and give you his proposal, there's
 13 nothing to prevent you from discussing it, nothing to
 14 prevent you from directing staff to go to the amendment
 15 stage or whatever.
 16 CHAIR STONE: Very good. So we could discuss
 17 it possibly even -- for example, even today, this could
 18 be discussed? Or would that be a breach of Sunshine
 19 because this wasn't on the agenda previously?
 20 MR. KUSHI: For today's agenda, there's
 21 nothing proposed for action. But, again --
 22 CHAIR STONE: It is a communication item.
 23 Yes.
 24 COMMISSIONER OKAMOTO: Communications, we can
 25 discuss those, correct?

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1 CHAIR STONE: Previously, what we would do, we
 2 would move these proposals that came in via
 3 communication onto our Active List which we would act on
 4 it at the next business meeting. And the reason why was
 5 the public would have an opportunity to have input on
 6 that active proposal.
 7 I think we'll stick with that method. All
 8 right? For example, this proposal will go on to the
 9 next -- as an active item on active Matrix in the next
 10 meeting. And, that way, the public would have time to
 11 chime in on that.
 12 MR. KUSHI: Correct.
 13 CHAIR STONE: Okay. Very good.
 14 Any further discussion?
 15 (No Response.)
 16 CHAIR STONE: Okay. Moving on. Our first
 17 draft amendment that we are working on is Article 3,
 18 County Council Term Limits.
 19 COMMISSIONER DELEON: Mr. Chair?
 20 CHAIR STONE: Yes, Commissioner DeLeon.
 21 COMMISSIONER DELEON: In reference to the
 22 limit on -- on term limits, I think we have some
 23 stumbling blocks. If, for instance, the voters do not
 24 choose a four-year term, then we can't say three terms.
 25 We might want to use a numeral length like eight or 12,

Page 17	<p>1 or something like that, if we're really planning on 2 four-year terms. 3 And the other problem I'm having is, what are 4 we going to do with incumbents? 5 CHAIR STONE: That is a very good question. 6 From what I understand on this, the way this proposal's 7 moving forward, it's four years and three term max, and 8 that's the proposal. So if that lives or dies, there's 9 no -- if this dies, there is no term limit going 10 forward. It's the term limits associated with the 11 four-year -- four-year terms. So that's something to 12 consider. 13 Commissioner -- oh, I'm sorry. Commissioner 14 Baxa. 15 COMMISSIONER BAXA: Oh. You can -- 16 COMMISSIONER OKAMOTO: Thank you. We could 17 separate it into two -- two different ones, though, 18 correct? 19 And then I just have one. And I know we're 20 not supposed to change, but, in the underlined part in 21 the last paragraph, the five councilmembers, the 22 remaining four shall be elected, shouldn't it say to "a" 23 two-year term? This sounds like it would continue as 24 two-year terms. 25 COMMISSIONER DELEON: Forever, yeah.</p>	Page 19	<p>1 certain districts, that's a guarantee for certain 2 people. 3 CHAIR STONE: Very good. Thank you. I'm sure 4 that when we come back to the -- obviously, we can't do 5 it right now, Dave, but, when we come back -- 6 COMMISSIONER DELEON: Okay. 7 CHAIR STONE: -- we can -- when we come back 8 from our public outreach, we can -- 9 COMMISSIONER DELEON: So we'll just put a red 10 flag on it for now-- and move along? I mean -- 11 CHAIR STONE: Yes. Like I said, we can't 12 change these draft proposals at this stage. Tonight, we 13 have our first public outreach meeting. But it can be 14 something that -- I'm sure that, as a commissioner, you 15 can put forward that's your thoughts. I mean, that's 16 the whole idea to explain to the public what potentially 17 we're thinking. 18 COMMISSIONER OKAMOTO: Guess what? I agree 19 with Dave. 20 CHAIR STONE: Thank you, Commissioner Okamoto. 21 Commissioner Baxa. 22 Another Christmas miracle. (Laughing.) 23 (Laughter.) 24 COMMISSIONER BAXA: Yeah. Mr. Chair, I have 25 two points here. Commissioner DeLeon has a point on the</p>
Page 18	<p>1 COMMISSIONER OKAMOTO: Forever, yeah. So, I 2 mean, I just think that needs "a" two-year term. And 3 then, after that, they all go to four, right? 4 CHAIR STONE: Very good. 5 COMMISSIONER OKAMOTO: And that is just sort 6 of a -- 7 COMMISSIONER DELEON: Mr. Chair? 8 CHAIR STONE: Yes, Commissioner DeLeon. 9 COMMISSIONER DELEON: I don't remember this 10 thing being one item. I remember this being two 11 separate items when we acted on it. And now it's 12 married into one item. And I'm really concerned because 13 I don't think four years is that secure. But I'm really 14 concerned about the term limits because we have a 15 history in this County of having -- of councilmembers 16 being on the Council for 40 years. So, I mean, the 17 structure we're going to the voters with is the 18 continuation of that structure that presents that kind 19 of possibility. So then we need to really -- I mean, if 20 we're serious about not having professional politicians 21 on our Council, then we need to work this so that those 22 things are separate, so that there's -- I think what 23 we're trying to do with the term limit was to correct 24 what we see as a puka in the current system where you 25 can take time off and come back around again. And in</p>	Page 20	<p>1 first point that I'm going to second, which is that any 2 proposal, it should never be compound; it should always 3 be simple, one topic at a time. 4 And the second point is if any of these 5 proposals will fail before the people, my understanding 6 is that the present provisions of the Charter will come 7 into play. So if they reject it, that's not the end of 8 it. There is something that will take place, the 9 existing Charter. 10 CHAIR STONE: Very good. Thank you. Thank 11 you. I think -- I think that's -- we have that 12 understanding on this particular proposal at this stage. 13 And, again, we don't want -- we're not going to work on 14 that right now, we just can't, but I believe that's 15 something that we'll work on when we get back to -- get 16 back working on it. 17 COMMISSIONER OKAMOTO: I think the other thing 18 about discussing them before we go out, it will also 19 attune us to what people are saying. And there may be 20 some people who say, yeah, we want to see that -- you 21 know, the terms not keep going, but we still want two 22 years. So, you know, I think it just helps us to listen 23 for what people are saying, too. 24 COMMISSIONER DELEON: Could I suggest 25 something?</p>

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1 CHAIR STONE: Commissioner DeLeon.
 2 COMMISSIONER DELEON: That would be to do a
 3 nonbinding sense of the group when we do have confused
 4 language like this, so that -- my sense is we're not in
 5 agreement with the language that's written here. So
 6 when we get confronted -- an astute reader will say,
 7 "Well, wait a minute, what happens when these things are
 8 tied together." Then we can say, as group, yeah, we
 9 kind of acknowledge that and we're going to work on it.
 10 Rather than me saying I'm going to work on it or you
 11 saying you're going to work on it, we can say as a group
 12 that's something that we're going to work on.
 13 Nonbinding, though. I mean, it's not like we're locking
 14 ourselves into particular language or anything.
 15 CHAIR STONE: Very good. I think maybe that's
 16 something the Chair could say. Then, that way, it
 17 represents the whole commission as a whole and doesn't
 18 look as if it's one individual.
 19 COMMISSIONER DELEON: I think I raised Ed over
 20 there, though.
 21 CHAIR STONE: Oh, Ed.
 22 MR. KUSHI: Yeah, Mr. Chair. A couple other
 23 points to maybe confuse the matter further. And,
 24 unfortunately, Sherry's not here, but we did discuss
 25 this internally. Regarding term limits, there's several

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1 consequences, unintended or whatever, two of them was
 2 mentioned, is what about incumbents, two to four term
 3 limits. They show staggering. I know what the intent
 4 of staggering is, but -- and it was just brought up that
 5 the four or five get the most votes have the four years.
 6 And the staggering -- the intent of staggering is not to
 7 have a brand new Council every four years. However, the
 8 current situation, you can get a brand new Council every
 9 two years. So what's the difference?
 10 CHAIR STONE: Uh-huh.
 11 MR. KUSHI: The other related consequence is
 12 you have a Charter amendment for a biennial budget. And
 13 it does say that the budget shall not be conducted or
 14 approved in an election year. So this would throw it
 15 off with staggered terms.
 16 And, lastly, as you know, the Council, once
 17 they get into a new term, they appoint their staff for
 18 the length of their term. Now it's two years. So they
 19 appoint the County Clerk, they appoint the Council
 20 Services Director, and, in turn, all these other
 21 employees. So now are we saying that these people will
 22 be appointed for four years? And, see, again, you know,
 23 these are consequences that may happen that you should
 24 consider.
 25 CHAIR STONE: Thank you very much, Ed. Thanks

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1 for your input.
 2 Yes, Commissioner Hedani.
 3 VICE-CHAIR HEDANI: Yeah. I'd like to comment
 4 on Commissioner Baxa's point. And I agree with
 5 Commissioner Baxa that every item that goes before the
 6 voters should be single items. So if the Corp Counsel's
 7 Office and Sherry can take a look at the ones that are
 8 listed, enumerated A, B, C and D, I think all of those
 9 need to be cleaned up somehow at the next stage.
 10 CHAIR STONE: Thank you, Commissioner Hedani.
 11 COMMISSIONER WIGER: Chair?
 12 CHAIR STONE: Yes, Commissioner Wiger.
 13 COMMISSIONER WIGER: Note that I'm using my
 14 microphone --
 15 (Laughter.)
 16 COMMISSIONER WIGER: -- without being told.
 17 CHAIR STONE: The third Christmas miracle.
 18 COMMISSIONER WIGER: There you go. In light
 19 -- in light of the comments regarding implications of
 20 this, would -- would it be possible for us to get, from
 21 Corp Counsel, further information, as he's just
 22 described, to say, okay, if you're looking at this
 23 particular item -- and I really agree with the idea that
 24 they should just be one, not two or three, but they need
 25 to be individual items that go. But then if Corp

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1 Counsel could provide for us information saying, okay,
 2 the implication of this particular item, if it's passed,
 3 on other items that are coming up is this, this and
 4 this. So when we're looking at something, we see the
 5 implications of an action that are taken.
 6 Now, this may have already been addressed.
 7 I'm sorry, I missed the last meeting. But if it hasn't,
 8 if that's something we could get, I think that would be
 9 helpful.
 10 CHAIR STONE: Very good. We'll definitely
 11 request that as we move forward. There's no doubt about
 12 that.
 13 Any further discussion on this particular
 14 proposal?
 15 COMMISSIONER DELEON: Mr. Chair?
 16 CHAIR STONE: Yes, Commissioner DeLeon.
 17 COMMISSIONER DELEON: What Commissioner Wiger
 18 just said kind of -- just a thought. I mean, maybe we
 19 want to have each one of our items sent out to the
 20 departments or to anybody that is affected and ask for
 21 any unintended consequences they see on each item. And
 22 this is an alert to -- you know, rather than finding out
 23 like at election time or some other time when it's kind
 24 of -- we can't reel it back in, where we can't fix the
 25 unintended consequence, try to get -- try to get it up

<p style="text-align: right;">Page 25</p> <p>1 front. What Ed's done for us is, in effect, tell us 2 what the unintended consequences could be for a 3 four-year term. So what are the other ones with the 4 other stuff as we go? Because we are pulling strings 5 inside of a system that's working. So, you know, cards 6 might fall and we might not intend those cards to fall. 7 CHAIR STONE: Very good point. That will be, 8 obviously, a primary focus before any of these proposals 9 actually get to the Council. So that is -- we'll work 10 on that, Dave, for sure. And, obviously, we are going 11 to need to analyze each one of these and understand what 12 consequences are going to fall out. However, today, 13 that's not our discussion. 14 Commissioner Hedani. 15 VICE-CHAIR HEDANI: So, Josh, are all of the 16 proposals going to be sent to all of the departments, or 17 have they already? 18 CHAIR STONE: Presently, the proposals have 19 not gone to all of the departments, but that will be 20 done and should be done. And I think that, at this 21 stage, it should be done as soon as possible. So that's 22 a very good suggestion, Wayne. 23 And, Lisa, if we can make sure that happens so 24 that we can start identifying the unintended 25 consequences and really start doing our homework on</p>	<p style="text-align: right;">Page 27</p> <p>1 the -- that we won't overlook it at some point in the 2 future after we start to deliberate on our final draft. 3 CHAIR STONE: I think, as with the whole 4 process to date, we have to take a general feeling of -- 5 you know, through our own notes, through our own -- 6 through our minutes, through our questioning of our 7 Analyst. You know, we -- I think we did a really good 8 job of pinpointing, you know, the impact of certain 9 groups, for example, and their input, and then looking 10 at the real -- the real input from the vast testifying 11 groups, the communications. I mean, that's our job, 12 really, is that we need to determine how much of an 13 impact the testimony has. And we take -- on a personal 14 level, I think, we take that input and make our 15 decisions. So, I mean, yes, I understand what you're 16 saying, but we've been doing that all along. 17 MEMBER HASHIMOTO: Well, I find that 18 sometimes, you know, in reading the testimony -- oh, not 19 the testimony, but the minutes, it's just really 20 difficult to follow what is actually being said, you 21 know. There's a lot that's said, and a lot of it is 22 repeated over and over. And oftentimes, the questions 23 by the Commissioners can -- can be kind of -- not 24 misleading, necessarily, but it makes it difficult to 25 figure out what the testifier is trying -- the point</p>
<p style="text-align: right;">Page 26</p> <p>1 these. 2 MR. KUSHI: Mr. Chair, for staff's 3 information -- 4 CHAIR STONE: Ed. 5 MR. KUSHI: -- all the departments, could our 6 staff send it via the Managing Director's office? 7 COMMISSIONER DELEON: Oh, okay. 8 CHAIR STONE: That would -- 9 MR. KUSHI: That office -- 10 CHAIR STONE: Determine where it's necessary, 11 yes, I think that's fine. That would be fine. 12 Any further question on this particular 13 proposal? 14 (No Response.) 15 CHAIR STONE: Very good. And as we said, 16 we're looking at this as, most likely, being multiple 17 proposals. But, again, what we're going to get tonight 18 and through the public outreach is how does the public 19 feel about these items. So our homework to rework it 20 will be heavy coming mid-January. 21 Commissioner Hashimoto. 22 MEMBER HASHIMOTO: I gave that some thought. 23 I was wondering how -- how we're going to keep track of 24 what we hear, the response from -- from the public. How 25 do we manage to keep those responses in such a way that</p>	<p style="text-align: right;">Page 28</p> <p>1 he's trying to make. He's asked so many questions 2 oftentimes that the point gets lost. I think, to me, it 3 does. 4 CHAIR STONE: This is inherently the issue 5 that you're always going to have with testimony. I 6 mean, you know, there's clarification going back and 7 forth, there's communication. And we do -- I think we 8 have to do the best job to get to -- each individual 9 commissioner needs to do the best job with each 10 testifier understanding what they have to say. So I 11 understand what you're saying. We'll have to see how it 12 works out at the end when we get to -- after this round 13 of public outreach. Hopefully, everybody has their -- 14 gets a good night's sleep the night before in listening. 15 Commissioner Hedani. 16 VICE-CHAIR HEDANI: Yeah. I kind of -- I kind 17 of understand what Cliff is saying. And from my 18 perspective, I think what we need to be careful of when 19 we go to public testimony and ask questions of the 20 public is that we're asking clarifying questions of what 21 they're saying. You know, not debating the issue, not 22 trying to change their mind or express our opinions 23 instead of theirs, but to listen to what they're saying 24 and to understand what they're saying and making sure we 25 understand what they're saying.</p>

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1 CHAIR STONE: Thank you, Commissioner Hedani.
 2 COMMISSIONER BAXA: Yeah. Mr. Chair?
 3 CHAIR STONE: Commissioner Baxa.
 4 COMMISSIONER BAXA: Yes. I think that is the
 5 importance when we ask clarifications from the testimony
 6 of each witness. And once we have heard those, I think
 7 it is incumbent on each and every one of us to sort of
 8 synthesize what they have said. Of course, our own
 9 self-evaluation, synthesizing may be wrong, but that is
 10 our own. You know, we should do that. Because there is
 11 no way which, you know, we can fully understand, you
 12 know. It's testimony, combining them together. It is
 13 our own self-evaluation and synthesizing that should be
 14 done for each and every one of us.
 15 CHAIR STONE: Thank you. I agree with all of
 16 you. And, again, it should be the focus, as
 17 Commissioner Hedani said, that, as the testifiers come
 18 forward, it should be based -- our questioning should be
 19 based on need for clarification, and not debate. So
 20 this round of public testimony, I'm going to keep a
 21 closer eye on entering into debate. Okay.
 22 So any -- next proposal we are discussing is
 23 Article 8, Chapter 9, Department of Personnel Services.
 24 COMMISSIONER SUGIMURA: Josh?
 25 CHAIR STONE: Yes, Commissioner.

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1 COMMISSIONER SUGIMURA: So on this one, I just
 2 want to note, as we go along and we find that we really
 3 want to propose only a limited number of proposals to
 4 the -- when it actually goes up to the ballot, that this
 5 one is a housekeeping item. I think there's a reason
 6 why, probably, all these years, it never came up to
 7 change the Charter, is because it is something that
 8 happens, anyway, because it's governed by Hawaii Revised
 9 Statutes. So whether it's in the Charter or not, it
 10 doesn't really matter. They still have to comply with
 11 it. So --
 12 CHAIR STONE: Very good. Thank you very much.
 13 One quick question. Ed, when these -- these
 14 housekeeping -- Ed, are you refusing to answer a
 15 question? (Laughing.)
 16 (Laughter.)
 17 CHAIR STONE: When it comes to these
 18 housekeeping items, is there like a specific section
 19 where we say "housekeeping items on the ballot" or do
 20 you refer to it as a housekeeping item? Because if I
 21 were a normal voter, reading this, I would go, "What the
 22 heck?"
 23 MR. KUSHI: Yes and no. Housekeeping is, you
 24 know, housekeeping. It's not substantive; it's just
 25 like following up, cleaning up after a party. The

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1 question is, do you have -- are you having a party or
 2 not. I think that should be in the Charter.
 3 As I read this Article 8, Personnel Services,
 4 I don't recall the justification, but it must have been
 5 strong enough for them to come forward. The first one
 6 about the duties and functions of the director of the
 7 department, as I recall, Chapter 91, HRS, does give the
 8 agencies authority to adopt administrative rules. So
 9 that might be redundant.
 10 As far as the Civil Service Commission
 11 adopting rules as prescribed by Hawaii Revised Statutes,
 12 again, I don't recall -- and, please, I apologize to the
 13 department in advance -- if this is also not redundant,
 14 because I think Hawaii Revised Statutes control whatever
 15 personnel matters any county of Hawaii would do.
 16 So, again, I'm not really -- I shouldn't say
 17 advising against this, but, since it was brought up,
 18 leave it on. I don't think it's housekeeping because I
 19 don't think -- it's nonsubstantive. I don't think it
 20 needs to be housekept. It's already understood that all
 21 departments can adopt administrative rules promulgated
 22 accordingly.
 23 And that's it, Mr. Chair.
 24 CHAIR STONE: Very good. I think, also,
 25 Commissioners -- I'm sorry. Commissioner Sugimura, what

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1 I'd say is that in reference to items such as this,
 2 having the input when we come back for that second
 3 round, saying this may be a redundancy, and we say,
 4 well, is it worth it to put on the ballot if it's a
 5 redundancy, we'll have that discussion at that stage.
 6 COMMISSIONER SUGIMURA: Okay.
 7 CHAIR STONE: Is that cool?
 8 COMMISSIONER SUGIMURA: Yeah. The party's
 9 happening is what he said.
 10 CHAIR STONE: Always partying at Ed's house.
 11 (Laughing.)
 12 Commissioner Baxa.
 13 COMMISSIONER BAXA: I think there is something
 14 to what Mr. Kushi said, but, in addition to that,
 15 though, by adopting this provision, if it will be
 16 adopted, I think it is to go that you have to -- it says
 17 here, "having the force and effect of law." I mean, in
 18 their own mind, they may be saying this will enforce the
 19 provisions of the civil service laws of the state, but
 20 they could -- they could do so many things there which
 21 is beyond our control to oversee right now. I don't
 22 know what they will do. So I would not be willing to
 23 vote for something that I don't know what they will be
 24 putting there.
 25 CHAIR STONE: Very good. Okay. Thank you,

Page 33	<p>1 Commissioner Baxa. 2 Any further discussion on this draft proposal? 3 Commissioner Hedani. 4 VICE-CHAIR HEDANI: On this particular item, 5 my comment was that I thought it should be combined with 6 something -- there's going to be other proposals or 7 amendments that come up that sort of are of the 8 housekeeping type nature, where what I was wondering is 9 if there should be one proposal that says -- and I don't 10 know if it's even in the Charter already -- Ed could 11 correct me if I'm wrong -- but something that says all 12 of the provisions of the Charter will comply with the 13 laws of the State of Hawaii and the United States of 14 America, so that we're complying with both the 15 Constitution as well as the State. 16 COMMISSIONER BAXA: Yeah. 17 CHAIR STONE: I think I recall reading that in 18 the Charter somewhere. But, obviously -- 19 VICE-CHAIR HEDANI: So if it's there, it's 20 there. 21 COMMISSIONER BAXA: Mr. Chair? 22 CHAIR STONE: Thanks, Commissioner Hedani. 23 Commissioner Baxa. 24 COMMISSIONER BAXA: I would agree, Mr. Chair, 25 with that, because, in the housekeeping matters that we</p>	Page 35	<p>1 is what we had voted or moved forward to draft proposal. 2 COMMISSIONER OKAMOTO: Right. No. I just 3 don't remember the discussion -- I mean, to say they 4 have police powers doesn't seem to be a housekeeping 5 issue, to me. I just couldn't remember what all was 6 said. If somebody asked us that, I would not -- 7 CHAIR STONE: You know, at this stage, I don't 8 want to get hung up on whether we're talking 9 housekeeping or not. Let's just -- our focus right now 10 is just to clarify and understand what our draft -- 11 COMMISSIONER OKAMOTO: If somebody were to ask 12 at a meeting, "what do you mean by police powers," I 13 wouldn't know what -- 14 CHAIR STONE: Very good. That is a request 15 for clarification. 16 COMMISSIONER OKAMOTO: Right. 17 CHAIR STONE: Thank you. 18 Ed, could you shed light on -- 19 MR. KUSHI: I'll try. And in advance, I 20 apologize to J.D. Kim, who might be listening. 21 The investigators to have police powers is 22 definitely not a housekeeping issue. I think it's 23 something that you're adding on. You're supplementing 24 the department. You'll have investigators doing raids, 25 possibly, and et cetera.</p>
Page 34	<p>1 saw before, they had specific reference to certain 2 provisions of the state law which would justify the 3 housekeeping amendment. 4 CHAIR STONE: Very good. Very good. Thank 5 you, Commissioner Baxa. 6 Any further discussion on the -- on 7 clarification of this proposal? 8 COMMISSIONER BAXA: No. 9 CHAIR STONE: No. Okay. Very good. Moving 10 forward. 11 The next proposal we are looking at, draft 12 proposal, is Article 3, Chapter 8, Department of 13 Prosecuting Attorney. Any clarification on this 14 particular proposal? 15 COMMISSIONER SUGIMURA: It's a housekeeping 16 matter, too, yeah. 17 COMMISSIONER OKAMOTO: Well, I don't recall 18 that we said they could have police powers. That one, I 19 wasn't sure. 20 COMMISSIONER DELEON: That's done already. 21 COMMISSIONER OKAMOTO: I don't remember the 22 discussion. 23 COMMISSIONER DELEON: It was done already. I 24 think so. It's done already. 25 CHAIR STONE: Yeah, we -- this -- I mean, this</p>	Page 36	<p>1 The second one about prosecuting offenses of 2 laws of the state, I think that may be redundant 3 because, if it's not in their now, I can see a defense 4 attorney trying to overrule all the prosecutions that go 5 on up-to-date. I mean, that's what they do, they 6 prosecute the laws of the state. 7 But the first one, police powers, 8 investigators, is not a housekeeping issue. 9 COMMISSIONER DELEON: Mr. Chair? 10 COMMISSIONER BAXA: Mr. Chair? 11 CHAIR STONE: Yes. Sorry. Commissioner 12 DeLeon. 13 COMMISSIONER DELEON: I believe that this is 14 the County Code. And they're trying to -- they're 15 backloading it into the Charter. That's the way I 16 understood this. It's something that exists already in 17 the County Code passed by the Council, and then the 18 Charter Commission is being asked to solidify it in the 19 Charter so it's clear and doesn't walk away later on 20 when they change the law. 21 CHAIR STONE: Thank you. 22 Commissioner Baxa. 23 COMMISSIONER BAXA: Mr. Chair, as to A, in 24 that particular section, I think we already discussed 25 this, it was to implement something that was already</p>

<p style="text-align: right;">Page 37</p> <p>1 allowed by state law. We are not talking about police 2 power here. We have to be clear about that. It does 3 not say police power. If you read it, it says appoint 4 investigators who shall have all the powers and 5 privileges of a police officer of the County. Police 6 power is entirely different. Police power is too broad. 7 Police power is very broad in terms of power. That's 8 not what it says here. 9 CHAIR STONE: Thank you. 10 Commissioner Moikeha. 11 COMMISSIONER MOIKEHA: This would be one that 12 I would ask staff to provide information, especially if 13 Dave is saying it's already there in a code or 14 ordinance, and define what that would mean. So if we 15 could add that to that list. 16 CHAIR STONE: Very good. 17 Commissioner Sugimura. 18 COMMISSIONER SUGIMURA: So this came from -- 19 based upon the records that were presented to us, from 20 the Mayor's Office. This is his Proposal Number 11. 21 That's what his proposal says. So that's where this 22 came from. 23 CHAIR STONE: Uh-huh. 24 COMMISSIONER SUGIMURA: So it's not like we 25 kind of, I think, added to it. It came from the Mayor's</p>	<p style="text-align: right;">Page 39</p> <p>1 Safety Commission. Any discussion, clarification on 2 this proposal? 3 (No Response.) 4 CHAIR STONE: No. Moving forward, Proposal 5 Number 6, Article 8, Section 7, Department of Fire and 6 Public Safety, Assign Ocean Safety and Rescue to 7 Department of Fire and Public Safety. 8 (No Response.) 9 CHAIR STONE: No discussion. Good. 10 COMMISSIONER CRIVELLO: There's a transitional 11 provision there, Mr. Chair? 12 CHAIR STONE: Yes. This comes along with a 13 transitional provision, yes. 14 COMMISSIONER CRIVELLO: Clarification? Just 15 that this new section will be added under the adoption, 16 that the Maui County Fire Department shall provide a 17 timetable for the transition. Are we saying for the 18 transition to the Fire, the Ocean Safety? Is this -- 19 CHAIR STONE: That's what that is in reference 20 to, is in adoption of bringing Ocean Safety under Fire. 21 COMMISSIONER CRIVELLO: Okay. 22 CHAIR STONE: And, again, that is something we 23 will discuss coming back to make sure that we -- that's 24 the best way to do that transition. 25 COMMISSIONER CRIVELLO: Okay. Thank you.</p>
<p style="text-align: right;">Page 38</p> <p>1 Office. 2 CHAIR STONE: Very good. 3 Further clarification on this proposal? 4 (No Response.) 5 CHAIR STONE: No. Very good. Moving forward. 6 Next proposal on our long proposal list -- 7 checking it twice -- 8 COMMISSIONER SUGIMURA: You're in the 9 Christmas spirit. 10 CHAIR STONE: I really am. It's because of 11 your wonderful gifts. 12 (Laughter.) 13 CHAIR STONE: Proposal -- Draft Proposal 14 Number 4, Article 3, Election of Council, and Article 7, 15 Election of Mayor, from nonpartisan to partisan. I 16 think that's fairly straightforward. And I'm sure we 17 will have some interesting public input on this one. 18 Any discussion on this particular proposal? Or, should 19 I say, clarification? 20 (No Response.) 21 CHAIR STONE: No. Very good. 22 Moving forward. Draft Proposal Number 5, 23 Article 8, Section 7, Department of Fire and Public 24 Safety, adopt new name for the Department of Fire and 25 Public Safety and the Department of Fire and Public</p>	<p style="text-align: right;">Page 40</p> <p>1 CHAIR STONE: Sure. 2 Moving forward. Proposal Number 7, Article 9, 3 Financial Procedures, adopt biennial budget and capital 4 program in nonelection years. 5 (No Response.) 6 CHAIR STONE: Okay. No clarification on that 7 one. 8 Draft Proposal Number 8, Article 8, Chapter 9 16, Cost of Government Commission, create an office of 10 the County Auditor with the Cost of Government as part 11 of the organization of that office. Any clarification? 12 (No Response.) 13 CHAIR STONE: No. Good. 14 Moving forward -- 15 COMMISSIONER BAXA: Mr. Chair? 16 CHAIR STONE: Yes, Commissioner Baxa. 17 COMMISSIONER BAXA: I just wanted to ask what 18 is the -- on the subject matter removal by the Cost of 19 Government Commission, do I understand, then, that the 20 power of the Commission shall be at will? 21 CHAIR STONE: Sorry. Could you clarify that, 22 Commissioner Baxa, please? 23 COMMISSIONER BAXA: The way I read this, 24 Mr. Chair, is that the County Auditor shall be appointed 25 and subject to removal by the Cost of Government</p>

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1 Commission. Is it my understanding that the removal
 2 could be at will by the Commission? At will means
 3 anytime they want to fire --
 4 CHAIR STONE: Yeah, I understand.
 5 COMMISSIONER BAXA: -- regardless of cause.
 6 Regardless of cause. That's my understanding.
 7 CHAIR STONE: Very good. Let me ask Ed if he
 8 has reviewed this proposal, and give us some
 9 clarification on that.
 10 MR. KUSHI: Mr. Chair, on that point from
 11 Commissioner Baxa, no. However, further on in your
 12 amendments, you have a proposal to treat all of these
 13 so-called discretionary boards and commissions who
 14 appoint their officers in a fair and equitable manner,
 15 meaning the Police, Fire, Liquor, Civil Service
 16 Commissions, that they have a due process clause in
 17 removing their appointees. So I would -- I would
 18 recommend that if this thing goes through and the Cost
 19 of Government is empowered to appoint the auditor, then
 20 the same process would apply.
 21 Now, again, Sherry and I had some staff
 22 comments on this auditor. If you read on the bottom, if
 23 the proposal is that the Cost of Government is going to
 24 be more than an advisory body, their duties need to be
 25 changed. They would effectively become an appointing

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1 authority. And the Charter needs to be changed in their
 2 provisions, also.
 3 CHAIR STONE: Uh-huh.
 4 COMMISSIONER BAXA: So, Mr. Chair?
 5 CHAIR STONE: Yes, Commissioner Baxa.
 6 COMMISSIONER BAXA: It is correct, then, to
 7 say that -- I know that Mr. Kushi said no, and then
 8 there was a qualification there. But I don't know if
 9 you should leave it the way it is. The way I understand
 10 it, the way it is worded, it is at the pleasure of the
 11 Cost of Government Commission.
 12 CHAIR STONE: Thank you. Again, Commissioner
 13 Baxa, this is something that we'll discuss on our --
 14 after our public outreach.
 15 COMMISSIONER BAXA: Yes.
 16 CHAIR STONE: Because we can't truly --
 17 COMMISSIONER BAXA: No, no. I don't want to
 18 change it now.
 19 CHAIR STONE: I think that's a very good
 20 point. And I think that we will have to discuss that in
 21 our next round.
 22 COMMISSIONER BAXA: Thank you, Mr. Chair.
 23 CHAIR STONE: Thank you, Commissioner Baxa.
 24 Very good point.
 25 Commissioner Moikeha.

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1 COMMISSIONER MOIKEHA: So if this was to pass
 2 as is, and changing the duties of the Cost of
 3 Government, is that too big to put under transitional
 4 changes, or would you need your own separate proposal
 5 for that? Because you would only do it if it -- if it
 6 -- if they voted in support of a County Auditor, if you
 7 were tying the two together.
 8 MR. KUSHI: Yeah. In briefly discussing this
 9 with the Analyst, Sherry Broder, our approach -- our
 10 suggestion would be, if this is the way the Commission
 11 wants to propose the amendment, we want to create a new
 12 department of Cost of Government, or whatever it is,
 13 give them the authority, and give the Commission under
 14 the Department the authority to appoint the auditor and,
 15 basically, create a new department.
 16 COMMISSIONER MOIKEHA: So that would be on a
 17 separate proposal, though?
 18 MR. KUSHI: I think you could provide it.
 19 COMMISSIONER MOIKEHA: Not under a
 20 transitional --
 21 MR. KUSHI: No. I think you would have to
 22 make a Charter amendment if you're going to create a new
 23 department.
 24 CHAIR STONE: Very good. Again, that's -- we
 25 will work on that. Good.

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1 Any further clarification on this --
 2 COMMISSIONER DELEON: Mr. Chair?
 3 CHAIR STONE: -- present language? Yes,
 4 Commissioner DeLeon.
 5 COMMISSIONER DELEON: It seems like an item
 6 that might -- the two items have to be tied together.
 7 You know, if the point is to create a five-year term
 8 commission that has authority, and then the auditor
 9 doesn't survive the election, then what's the point of
 10 having the commission set up to be the authority? So
 11 sounds like the two need to be tied together.
 12 CHAIR STONE: I believe that was the intent of
 13 the proposal. As I recall, Commissioner De Rego put
 14 forward that, obviously, it all has to be tied together.
 15 And maybe we haven't gotten there yet in our draft
 16 proposal, but this is a good -- good way to take it to
 17 the community and see how they feel about this.
 18 COMMISSIONER DELEON: Mr. Chair, just for --
 19 CHAIR STONE: Commissioner DeLeon.
 20 COMMISSIONER DELEON: I've had a councilmember
 21 approach me about this and wasn't very excited about the
 22 idea of a commission appointing the auditor. The
 23 Council wants to -- according to the councilmember, the
 24 Council would prefer to be doing the appointing. So
 25 just for the record that that was mentioned.

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1 CHAIR STONE: Commissioner DeLeon, are you
 2 telling me that a politician didn't want oversight?
 3 (Laughter.)
 4 COMMISSIONER DELEON: I believe that's what I
 5 was telling you, yeah.
 6 CHAIR STONE: Are we -- are you -- do you have
 7 verification of this information?
 8 (Laughter.)
 9 CHAIR STONE: Did Qmark do a research study on
 10 that, Commissioner DeLeon?
 11 COMMISSIONER DELEON: It can be done.
 12 (Laughter.)
 13 CHAIR STONE: Commissioner Hedani.
 14 VICE-CHAIR HEDANI: I just wanted to point out
 15 to the Commission that Jim Smith submitted testimony
 16 today relative to this particular office. And he,
 17 actually, did the research and showed that the original
 18 office of the County Auditor was elected. And then it
 19 was changed and moved to appointed, part of the
 20 Department of Finance.
 21 CHAIR STONE: Thank you, Commissioner Hedani,
 22 for doing your homework.
 23 Okay. No further discussion on that proposal,
 24 moving on to proposal -- Draft Proposal Number 9. This
 25 is Article 13, General Provisions, Section 13-2, Boards

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1 and Commissions, Subsection 2, nonpartisan boards and
 2 commissions.
 3 (No Response.)
 4 CHAIR STONE: No discussion there. Very good.
 5 MR. KUSHI: Mr. Chair?
 6 CHAIR STONE: Yes, Ed.
 7 MR. KUSHI: Sorry for interrupting. The way
 8 the amendment reads -- and I believe I know -- I
 9 acknowledge the intent of the proposal, but the way the
 10 amendment reads is it would say members of boards and
 11 commissions, commissions shall be appointed on a
 12 nonpartisan basis. I believe the issue was just take
 13 politics out of the issue. The way it reads right now
 14 is that no board or commission shall have a bare
 15 majority. But the language, as it states, one may
 16 interpret it to say that the councilmembers, in
 17 appointing board and commission members, if you declare
 18 yourself a republican, democrat, or a donkey, you cannot
 19 be appointed, you must say you're nonpartisan. So --
 20 CHAIR STONE: I think that is a very good
 21 point. And we will review that when we go back to this
 22 language. It's a very good point, Ed. Thank you. And
 23 I don't think that will be too difficult to fix in the
 24 language. But as I said, we can't change the language
 25 at this time.

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1 COMMISSIONER DELEON: Mr. Chair?
 2 CHAIR STONE: Yes, Commissioner DeLeon.
 3 COMMISSIONER DELEON: The original purpose was
 4 just to remove that item from the Charter. It wasn't to
 5 declare nonpartisan or partisan or anything like that;
 6 it was just to remove the necessity of identifying your
 7 party.
 8 CHAIR STONE: I'm sure, with 11 members and
 9 staff, we'll be able to come up with language that
 10 reflects exactly what we're trying to get to. Thank
 11 you.
 12 Further discussion?
 13 (No Response.)
 14 CHAIR STONE: No. Very good. Moving on.
 15 Next, Draft Proposal Number 10, Article 13, General
 16 Provisions, Section 13-2, Boards and Commissions,
 17 Subsection 17, require interactive communications access
 18 for the public to all County Council and County Council
 19 Committee meetings. Any discussion on the language?
 20 COMMISSIONER DELEON: Mr. Chair?
 21 CHAIR STONE: Yes, Commissioner DeLeon.
 22 COMMISSIONER DELEON: Maybe this is in the
 23 wrong place. Boards and commissions, we're talking
 24 about Council meetings. Is that apples and oranges?
 25 CHAIR STONE: Again, Commissioner DeLeon, I

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1 think that we will reserve that discussion.
 2 COMMISSIONER DELEON: Well, the point is to
 3 raise issues when we see them, right, at this point?
 4 CHAIR STONE: Well, actually, today, this is
 5 just to understand what we're taking to the public
 6 today.
 7 COMMISSIONER DELEON: Okay. So I'm trying to
 8 do that. I'm trying to point out that --
 9 CHAIR STONE: Okay. Very good.
 10 COMMISSIONER DELEON: -- we might have an
 11 apples and oranges situation.
 12 CHAIR STONE: Okay. Very good. Explain it
 13 further, Commissioner DeLeon, please.
 14 COMMISSIONER DELEON: In the sense that the
 15 way this reads is it's under Boards and Commissions, and
 16 we're not talking about Boards and Commissions. We're
 17 talking about communications with the County Council,
 18 which might be under the -- I believe 3, or something
 19 like that --
 20 COMMISSIONER OKAMOTO: Yeah.
 21 COMMISSIONER DELEON: -- rather than 13.
 22 CHAIR STONE: Very good. We can -- if that
 23 were to come up in the public meeting, we would say this
 24 could potentially be in the wrong section of the
 25 Charter.

<p style="text-align: right;">Page 49</p> <p>1 Commissioner Baxa.</p> <p>2 COMMISSIONER BAXA: Mr. Chair, I second that,</p> <p>3 but, in addition to that, I think there should be a</p> <p>4 definition of interactive communications access. That</p> <p>5 should be defined.</p> <p>6 CHAIR STONE: Oh, very good. Very good.</p> <p>7 COMMISSIONER BAXA: Thank you.</p> <p>8 CHAIR STONE: Any further -- any further</p> <p>9 discussion on this language?</p> <p>10 (No Response.)</p> <p>11 CHAIR STONE: No. Commissioners, thanks for</p> <p>12 -- those are both very good points. Thank you.</p> <p>13 Moving forward. We're now on Draft Proposal</p> <p>14 Number 11, Article 13, General Provisions, Section 13-2,</p> <p>15 Boards and Commissions, Subsection 17, increase the</p> <p>16 number of days the Mayor has to submit to Council the</p> <p>17 name of Mayor's nominee to fill a vacancy. Discussion?</p> <p>18 (No Response.)</p> <p>19 CHAIR STONE: No discussion on that language.</p> <p>20 Very good.</p> <p>21 Draft Proposal Number 12, Article 14, Section</p> <p>22 14-1, Initiation of Amendments, remove authority of</p> <p>23 County Council to propose Charter amendments during the</p> <p>24 General or Special Election cycle that the Charter</p> <p>25 Commission's conducting its mandatory review.</p>	<p style="text-align: right;">Page 51</p> <p>1 for the next five years.</p> <p>2 COMMISSIONER DELEON: There was a --</p> <p>3 Mr. Chair?</p> <p>4 CHAIR STONE: Yes.</p> <p>5 COMMISSIONER DELEON: There was an item to</p> <p>6 have our appointments to be tied to the same network --</p> <p>7 same timing as the formal -- the other -- the other</p> <p>8 regular boards and commissions. And so it was the</p> <p>9 approval process. So the period that the Mayor has to</p> <p>10 nominate and the Council has to approve the nominations.</p> <p>11 It's within a window from beginning of January through</p> <p>12 April 1st.</p> <p>13 CHAIR STONE: Uh-huh.</p> <p>14 COMMISSIONER DELEON: And the original concern</p> <p>15 was that it was kind of -- there was no bottom line for</p> <p>16 the Council. The Council could sit on nominations as</p> <p>17 long as they wanted. There was no provision for them to</p> <p>18 say, 60 days and you're done. Under -- under the -- the</p> <p>19 other boards and commissions, the Council has 60 days.</p> <p>20 And if it doesn't act, if it fails to act, then whatever</p> <p>21 the -- whoever the Mayor nominated is automatically</p> <p>22 approved. And so that's a -- and the Council takes that</p> <p>23 responsibility seriously, and -- and almost never allows</p> <p>24 an appointment to go through without action, either a</p> <p>25 yes or a no. So -- but that's not -- that doesn't exist</p>
<p style="text-align: right;">Page 50</p> <p>1 (No Response.)</p> <p>2 CHAIR STONE: No clarification. Good.</p> <p>3 Moving forward. Article -- I'm sorry. Excuse</p> <p>4 me. Proposed Draft Number 13, Article 14, add a new</p> <p>5 section to require that the Charter be revised and</p> <p>6 published to include all new significant amendments</p> <p>7 adopted.</p> <p>8 (No Response.)</p> <p>9 CHAIR STONE: No discussion. Good.</p> <p>10 Moving forward to Draft Proposal Number 14,</p> <p>11 Article 14, Section 14-3, Mandatory Review, to conform</p> <p>12 the term of appointment of Charter Commissioners to the</p> <p>13 terms of other Maui County boards and commissions.</p> <p>14 Commissioner Hedani.</p> <p>15 VICE-CHAIR HEDANI: It's a mistake. It should</p> <p>16 be Cost of Government Commission, I think is what we're</p> <p>17 talking about, not the Charter Commission. If we take</p> <p>18 five years to come up with amendments to the Charter,</p> <p>19 you know, my comment was, we should all be lined up and</p> <p>20 shot.</p> <p>21 (Laughter.)</p> <p>22 COMMISSIONER DELEON: (Inaudible) before we</p> <p>23 get there, anyway.</p> <p>24 CHAIR STONE: I just thought it would be great</p> <p>25 to have -- you know, see you guys every -- twice a month</p>	<p style="text-align: right;">Page 52</p> <p>1 for this Commission. It is -- our Commission's</p> <p>2 provision in the Charter is, basically, lifted from the</p> <p>3 HRS provision and didn't have that kind of end date on</p> <p>4 it. So a commission -- a councilmember, or</p> <p>5 councilmembers, who didn't want this Commission to</p> <p>6 function very well could just hold us out for six months</p> <p>7 and -- and not complete the nomination process. And</p> <p>8 there's no window they are required. So that is to make</p> <p>9 that requirement. So, by April 1st, this Commission is</p> <p>10 up and running.</p> <p>11 CHAIR STONE: Very good. Is that in reference</p> <p>12 to this?</p> <p>13 COMMISSIONER DELEON: Yeah. Yeah, I think</p> <p>14 that's where the confusion is. Yeah. I think we got</p> <p>15 two -- we got apples and oranges going.</p> <p>16 CHAIR STONE: Okay. Again -- again, that is</p> <p>17 -- when we come back to -- that's a -- that's,</p> <p>18 basically, eliminating this proposal and talking about a</p> <p>19 whole nother one. So let's -- at this stage, that's</p> <p>20 our -- we understand the language of what this proposal</p> <p>21 is, whether or not we agree with it or not. And</p> <p>22 everybody's shaking their head, but I want to remind you</p> <p>23 that we voted to push this on to draft proposal stage.</p> <p>24 So a majority of us can't be shaking our heads.</p> <p>25 (Laughing.)</p>

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1 Commissioner Moikeha.
 2 COMMISSIONER MOIKEHA: Actually, what Dave
 3 said was correct, so -- I wasn't at your last meeting.
 4 Did you vote on that at the last meeting, this
 5 particular language?
 6 COMMISSIONER DELEON: No.
 7 COMMISSIONER MOIKEHA: You didn't?
 8 COMMISSIONER DELEON: No.
 9 COMMISSIONER MOIKEHA: So I --
 10 CHAIR STONE: Don't go point fingers,
 11 Commissioner Moikeha.
 12 (Laughter.)
 13 COMMISSIONER MOIKEHA: What Wayne said is also
 14 true. It was never a discussion of five years.
 15 COMMISSIONER DELEON: No. I think what --
 16 CHAIR STONE: You know what, let's back up.
 17 This is what was done. All right. We're not --
 18 COMMISSIONER MOIKEHA: Okay. Let me --
 19 CHAIR STONE: I don't --
 20 COMMISSIONER MOIKEHA: Can I finish?
 21 CHAIR STONE: It doesn't matter what majority
 22 pushed this forward, but we're not debating whether --
 23 we're not debating this at this time.
 24 COMMISSIONER DELEON: We're trying to get
 25 clarity.

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1 CHAIR STONE: Yes. Okay.
 2 COMMISSIONER MOIKEHA: Chair, I just want to
 3 put something on the record because this is important.
 4 And this is the problem with this kind of procedure that
 5 you may run into. I don't know what happened at the
 6 last meeting, if you had a chance to go through every
 7 one of these and get clarity and make sure what you had
 8 asked staff to do is what came back. My feeling is,
 9 this is the first time we're seeing this list
 10 comprehensively and starting to clarify, well, was there
 11 a misunderstanding on what we asked staff to do. And I
 12 don't know why we don't have the ability to say this is
 13 a mistake now and change it. It's different from what
 14 you said earlier, that this has gone out to the public.
 15 But changes can be made if there's been an error. Now
 16 we're taking something out there that's an error. And
 17 if they want to go in and start researching the
 18 language, because there was never a discussion of
 19 extending this body to five years.
 20 CHAIR STONE: Commissioner Moikeha, that's --
 21 that's not true.
 22 COMMISSIONER MOIKEHA: Okay.
 23 CHAIR STONE: If you weren't here at the last
 24 meeting, please don't speak as fact when you are not
 25 clear on whether or not this happened.

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1 COMMISSIONER MOIKEHA: Then I would like the
 2 Chair to correct me. That's fine. But I asked, in the
 3 beginning, did you actually vote on this Number 14
 4 proposal, the specific language at the last meeting.
 5 CHAIR STONE: To be honest, I don't recall,
 6 Commissioner Moikeha. We did a lot of work at the last
 7 meeting. And if we -- if we had our Analyst here, she
 8 would fill us in exactly on whether or not we had voted
 9 on this particular proposal. And --
 10 COMMISSIONER CRIVELLO: It's in the minutes.
 11 CHAIR STONE: And, again, it would be in our
 12 minutes. But we should take the time to go through
 13 it --
 14 COMMISSIONER DELEON: Mr. Chair?
 15 CHAIR STONE: -- to decide if it is in the
 16 minutes.
 17 Commissioner DeLeon.
 18 COMMISSIONER DELEON: I can remember this 2017
 19 citation. And I was confused by it. I didn't know what
 20 it meant. And we never had an opportunity on the record
 21 to have this conversation before, so I didn't know what
 22 -- what the purpose of that exercise was. And I think
 23 there was confusion by staff at that point in reference
 24 to what was being proposed. I think we had some
 25 discussions about having a commission that would go

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1 longer and do a much more detailed discussion. And I
 2 think somewhere that the -- the proposal I was talking
 3 about, the nomination process, and the five-year term
 4 for the Cost of Government Commission got kind of pushed
 5 together somehow.
 6 COMMISSIONER CRIVELLO: Mr. Chair?
 7 COMMISSIONER WIGER: Chair?
 8 CHAIR STONE: Yes, please, Commissioner Wiger.
 9 COMMISSIONER WIGER: I guess the question that
 10 I want to ask should be directed to Commissioner DeLeon.
 11 Did that conversation that you're talking about, where
 12 there was -- the two got mushed together or there was --
 13 you said that you weren't able to ask for clarification.
 14 Was that at the last meeting that that actually
 15 happened?
 16 COMMISSIONER DELEON: I'm referring to
 17 language we've seen from the staff that we haven't had a
 18 chance to address yet.
 19 COMMISSIONER WIGER: Right. Right. But I'm
 20 following with Susan's comment, because I was not at the
 21 last meeting. I don't remember -- I don't remember
 22 having conversations prior to that -- to the last
 23 meeting. And it may have been at the last meeting where
 24 things got somewhat confused. I'm just trying to figure
 25 out where the confusion came because, like Susan, I

<p style="text-align: right;">Page 57</p> <p>1 don't remember that this actually was discussed to bring 2 clarification to it. 3 COMMISSIONER DELEON: Well, with all due 4 respect, Commissioner -- 5 CHAIR STONE: Hang on, guys. 6 COMMISSIONER DELEON: Well, she asked me a 7 question. 8 CHAIR STONE: Commissioner DeLeon, go ahead. 9 COMMISSIONER DELEON: Okay. In all due 10 respect, all I was referring to is language I've seen 11 written by staff. 12 COMMISSIONER WIGER: Okay. I was just 13 wondering. 14 COMMISSIONER DELEON: I think -- and we just 15 never had a chance to have this conversation before. So 16 we're having it now. 17 COMMISSIONER WIGER: Okay. I was just 18 wondering. 19 CHAIR STONE: Commissioner, please. 20 COMMISSIONER CRIVELLO: I guess this would go 21 to Corp Counsel. If we're taking some language out that 22 may be in error, do we still take it out there, I mean, 23 or do we make a note, possible language error, you know? 24 MR. KUSHI: I would definitely tell the 25 members -- public members that this has an asterisk on</p>	<p style="text-align: right;">Page 59</p> <p>1 don't do it, then you don't do it, and there's no 2 Charter Commission amendments. 3 But, again, these are two separate issues. I 4 agree. 5 CHAIR STONE: Thank you very much, Ed. And -- 6 COMMISSIONER BAXA: Mr. Chair? 7 CHAIR STONE: I just want to point out, I 8 recall -- and I'm sticking my neck out here because I 9 haven't gone back through the minutes -- but I recall 10 that Commissioner De Rego brought this forward. And 11 he's not here to -- I recall that -- and I may be 12 incorrect, Susan, but you -- you asked. And it came -- 13 it came from somewhere. And I believe it came from 14 Commissioner De Rego. And I may be wrong. And if I'm 15 wrong, I feel bad, but -- Commissioner Okamoto. 16 COMMISSIONER OKAMOTO: Mr. Chair, I was the 17 one that originally brought up the idea that we needed a 18 longer period of time. Maybe that's where the 1st day 19 of December comes. In our minutes, on Page 203, it does 20 specifically state to -- Proposal 14-4, to amend the 21 Charter Commission appointment process, which is 22 different than that. And I do think that De Rego said, 23 well, you know, maybe we should have five years for 24 everybody, but I don't think that's what was agreed 25 upon. I think that it did get more --</p>
<p style="text-align: right;">Page 58</p> <p>1 it. 2 (Laughter.) 3 MR. KUSHI: But, again, you know, it is what 4 it was. Sherry did draft this amendment. Maybe it's a 5 misunderstanding with staff. But I do recall and 6 confirm the discussions we had, as Commissioner DeLeon 7 said. My recollection was that the Cost of Government 8 Commission, right now, it's in the Charter, it provides 9 for two-year terms. And it's really weird. Two-year 10 terms, staggered, et cetera, unlike regular boards and 11 commissions, for five years. But since it's in the 12 Charter, you might want to -- you to change the Charter. 13 As concerns this Commission, your appointment does not 14 have an expiration date. HRS 50 does say that your term 15 ends after the election wherein you put your amendments 16 on the ballot. That's what it says. So, typically, 17 it's going to be the General Election coming up in 2012. 18 What if your amendments don't make the ballot? They 19 could have a Special Election, it could be extended for 20 another year. I mean, that's what -- that's what the 21 language says. 22 Now, again, there was confusion about the 23 appointment process. I can confirm that. Mr. Molina 24 can confirm that. It should be started earlier, and put 25 a end date on your service, that's fine with us. And if</p>	<p style="text-align: right;">Page 60</p> <p>1 COMMISSIONER CRIVELLO: On the 28th, it 2 mentioned, shall serve for five years. 3 CHAIR STONE: Yeah. Could you please specify 4 that, please, Commissioner? 5 COMMISSIONER CRIVELLO: I'm looking at the 6 handout we had from Sherry on November 28. And -- 7 COMMISSIONER BAXA: What page? 8 COMMISSIONER CRIVELLO: That was on our last 9 meeting, from November 28. And in reference to this, 10 it's -- I don't know how we did it, but Section 14-3, 11 Mandatory Review, and what's underlined is "not later 12 than the first day of December 1st, 2017, and the Mayor, 13 with the approval of the Council, shall appoint the 14 Charter Commission composed of 11 members who shall 15 serve for five years," and that's underlined, "to study 16 and review the operation of the government of the 17 County, under such amendments," et cetera, et cetera. 18 So there it is. 19 CHAIR STONE: Commissioner Hedani. 20 VICE-CHAIR HEDANI: When we had our last 21 meeting, for the edification of the Commissioners that 22 weren't here, Sherry indicated that she had a bunch of 23 questions on the drafts that were prepared. And we did 24 not have enough time to go through her questions at that 25 particular meeting. And so the decision was to leave</p>

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1 everything as it was, warts and all, and go to the
 2 public and sort it all out after the fact. And this
 3 particular meeting was supposed to be one to try to
 4 flush out what those warts and pimples are, which we're
 5 doing a good job.
 6 CHAIR STONE: Yeah, very good job.
 7 Commissioner Moikeha.
 8 COMMISSIONER MOIKEHA: And that's all I was
 9 trying to bring out, because the problem with all the
 10 drafts that have been proposed doesn't necessarily mean
 11 that's what we voted on. They were under instruction.
 12 And here's an example right here in the minutes. It was
 13 the process; it wasn't specifically -- also, I believe
 14 what Wayne said, too. And the first discussion of any
 15 extended time limit for us, this Charter Commission, was
 16 at the time when we were deciding on moving things to an
 17 Active Proposal List. Because Kay brought it up, and
 18 then I said, well, I would even go for two years. And
 19 then Dave came in with a process, which is something
 20 different. And then Wayne is recalling what De Rego had
 21 said regarding the Cost of Government being extended to
 22 a five-year term.
 23 So this concept of trying to hold true to what
 24 has been written by staff never got a full vetting. And
 25 that is all I'm trying to say. I'm not trying to

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1 disrupt your process today. And it appears that it is a
 2 clear mistake. And I believe what -- Corp Counsel has
 3 offered that we put an asterisk and say this is a
 4 mistake. And we should identify those that we really
 5 believe are mistakes. Because this is a -- and, see --
 6 CHAIR STONE: Commissioner Moikeha, I just
 7 want to be sure, when we say that this was a mistake,
 8 that this was a mistake. That's all I'm saying.
 9 COMMISSIONER MOIKEHA: And that's fine. And I
 10 support that.
 11 CHAIR STONE: I don't want to say that, oh --
 12 COMMISSIONER MOIKEHA: That's why.
 13 CHAIR STONE: -- by the way, public, this is a
 14 mistake when, in actuality, the record shows that we --
 15 this was not a mistake. So I agree with you. I respect
 16 what you're saying. Let's just -- if it is a mistake,
 17 it's a mistake.
 18 COMMISSIONER MOIKEHA: So what I'm asking is
 19 that we just identify a --
 20 CHAIR STONE: It needs to be clear --
 21 COMMISSIONER MOIKEHA: -- asterisk.
 22 CHAIR STONE: -- before we --
 23 COMMISSIONER DELEON: Mr. Chair?
 24 CHAIR STONE: -- call it a mistake.
 25 COMMISSIONER MOIKEHA: Okay. I guess I'm

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1 totally misunderstanding.
 2 COMMISSIONER DELEON: Mr. Chair?
 3 CHAIR STONE: Yes, Commissioner DeLeon.
 4 COMMISSIONER DELEON: I would like to make a
 5 motion that we put an asterisk on this particular item.
 6 CHAIR STONE: Before you guys go any further,
 7 I have an asterisk and written the word "asterisk."
 8 Okay?
 9 (Laughter.)
 10 CHAIR STONE: So I understand what we're
 11 saying. Okay.
 12 COMMISSIONER BAXA: Mr. Chair?
 13 CHAIR STONE: Yes, Commissioner Baxa.
 14 COMMISSIONER BAXA: I don't want to add fire
 15 to this, but I think Commissioner Okamoto was right when
 16 she was the one who first proposed to lengthen, a little
 17 bit, the term of the Charter Commission Members, to give
 18 us time to really (inaudible) everything that we work
 19 on. And, in fact, I remember I was the one who
 20 objected, why do we need so much time.
 21 Do you remember that, Commissioner Okamoto?
 22 COMMISSIONER OKAMOTO: Yes.
 23 COMMISSIONER BAXA: So I do not remember,
 24 though, whether it was really presented that we have to
 25 vote for this five-year term of the Charter

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1 Commissioners.
 2 The comment of Mr. Kushi is very well founded.
 3 How can we exist beyond the time of the election when
 4 the Charter will have been adopted or not adopted? It
 5 is impossible. So it makes sense that we are not
 6 looking for a five-year term appointment.
 7 CHAIR STONE: Thank you, Commissioner Baxa.
 8 Again, asterisk and written out "asterisk."
 9 MEMBER HASHIMOTO: Is it in ink?
 10 COMMISSIONER OKAMOTO: Yes. Yes.
 11 CHAIR STONE: Commissioner Moikeha, I just
 12 want you to verify that there's an asterisk at the top
 13 of this page. Okay, no jokes today.
 14 COMMISSIONER MOIKEHA: So noted.
 15 CHAIR STONE: Thank you.
 16 All right. Any further discussion?
 17 Commissioner Hedani.
 18 VICE-CHAIR HEDANI: I would like to amend
 19 Dave's motion to make this one two asterisks.
 20 (Laughter.)
 21 CHAIR STONE: Do we have a second to double
 22 asterisk on the page? The motion's been seconded. All
 23 in favor say "aye." Aye. There are now two asterisks
 24 on this page.
 25 Moving on, next, Draft Proposal Number 15,

<p style="text-align: right;">Page 65</p> <p>1 Article 13, General Provisions, Section 13-2, Boards and 2 Commissions, Subsection 17, require the County of Maui 3 to fund the defense of members of all County of Maui 4 boards and commissions and to indemnify said members. 5 Clarification on that language? 6 COMMISSIONER BAXA: Mr. Chair? 7 CHAIR STONE: Commissioner Baxa. 8 COMMISSIONER BAXA: Yeah. I know we cannot 9 change the language right now, but I have some comments 10 here. And maybe Mr. Kushi could enlighten us a little 11 on the -- how the wording came -- the full wording came 12 about. I remember that in my participation of the 13 discussion of this -- and I remember correctly that it 14 was Commission Moikeha's point from which this came 15 about -- I made the full -- I made the amendment to -- 16 for the defend and indemnify from previous wording, and 17 that was adopted. And if I remember correctly, it was 18 to defend and indemnify a voting commission member for 19 any civil action arising from performance of his or her 20 duties. The way it is worded now is this: "Perform 21 their official duties in good faith and lawful manner." 22 I really have a question whether we have to include all 23 this words. "Lawful manner," I know that the intent is 24 very good to see that the commissioner was lawfully 25 performing his or her duties, but, if you put this kind</p>	<p style="text-align: right;">Page 67</p> <p>1 whether or not to defend and indemnify, that is the 2 current procedure. We review all complaints, we check 3 the record, and we go to Council for resolution. So at 4 this point in time, Mr. Chair, I would rather wait 5 until this Commission thoroughly analyzes Analyst 6 Broder's memo, wait until she comes back. 7 CHAIR STONE: Thank you, Ed. 8 Commissioner Baxa, is that okay? 9 COMMISSIONER BAXA: Yes. I just wanted to 10 make some clarification, Mr. Chair. 11 CHAIR STONE: Please, go ahead. 12 COMMISSIONER BAXA: It is not my intent to 13 derail the amendment. 14 CHAIR STONE: Okay. Very good. It's just the 15 understanding. 16 Commissioner Moikeha. 17 COMMISSIONER MOIKEHA: What I do recall when 18 this was moving forth to the Active List -- and I'm the 19 one that had a lot of conversation that I put forth 20 after hearing from Corp Counsel -- and I thought that 21 the amendment also included "as advised by Corp Counsel" 22 as the language. I totally support the position of the 23 County, especially attorneys, that if we're acting 24 against the advice of counsel, then we should not 25 probably be indemnified and defended on our actions.</p>
<p style="text-align: right;">Page 66</p> <p>1 of language here, it looks like that you have to decide 2 first whether, in fact, the participation of the 3 commissioner is lawful before you would defend that 4 commissioner. I do not -- I do not think that should be 5 the case. 6 In my humble opinion, if a commissioner 7 performs his or her official duties, that implies that 8 she is doing it in her official capacity. And from 9 there should arise the right to be defended. I do not 10 know what the other Commissioners feel, but my 11 interpretation of the present language is that you have 12 to first determine whether that participation is lawful. 13 So that means there is a civil litigation ahead of 14 defending that commissioner. 15 CHAIR STONE: Thank you, Commissioner Baxa. 16 Ed, do you have a response to that? 17 MR. KUSHI: At this point in time, I'd rather 18 not respond. Your Analyst did provide a quite thorough 19 memo on the general rule and the state of the law of 20 defense and indemnification of board members. And, in 21 fact, the State of Hawaii has a statute. So as of now, 22 I think further discussion is needed. I will not say on 23 the record whether I agree with Commissioner Baxa or 24 not, but I can tell you, as a matter of fact, what he 25 described in terms of our office determining in advance</p>	<p style="text-align: right;">Page 68</p> <p>1 But that's why all these boards and commissions do have 2 attorneys, is to advise us. And so I do recall that the 3 amendment -- the exact motion included "as advised by 4 Corp Counsel" to alleviate that issue. And I do 5 understand their position that they still prefer to take 6 it to the Council. I don't think it has to be a 7 conflict, though, if this passes, "as advised" -- with 8 the amended language, "as advised by Corp Counsel." 9 CHAIR STONE: Good. Thank you very much. 10 Commissioners? 11 (No Response.) 12 CHAIR STONE: All right. Very good. Thank 13 you. 14 I have now come to a point in my packet where 15 the following agenda items were not available by the 16 time of this mailing. And, Ed, I think we put forward a 17 -- see if Corp Counsel could put these draft proposals 18 together, but -- are we there or no? 19 MR. KUSHI: For the record, Mr. Chair, on your 20 agenda, we're at Page 5, top of Page 5? 21 COMMISSIONER OKAMOTO: Yes. 22 MR. KUSHI: You just did Item Number 15? 23 CHAIR STONE: Yeah. We're moving on to Item 24 Number 16. 25 MR. KUSHI: For Item 16 through 21, the</p>

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<p>1 questions were drafted and the amendments were not --</p> <p>2 specific amendments to the Charter language have not</p> <p>3 been drafted at this point in time.</p> <p>4 What you can do is -- but we needed something</p> <p>5 to go out to the public. This is why the questions were</p> <p>6 framed. The specific amendments in Ramseyer format have</p> <p>7 not been done yet.</p> <p>8 CHAIR STONE: Thank you. And I think we're</p> <p>9 all aware of why.</p> <p>10 MR. KUSHI: Yeah.</p> <p>11 CHAIR STONE: Okay. So, Ed, just for</p> <p>12 clarification, this language, as we see it, is what the</p> <p>13 public is receiving?</p> <p>14 MR. KUSHI: This is all we have.</p> <p>15 CHAIR STONE: That's all we had. Very good.</p> <p>16 MR. KUSHI: I think the questions themselves</p> <p>17 are pretty straightforward.</p> <p>18 CHAIR STONE: Yes. Yes.</p> <p>19 MR. KUSHI: And you can discuss it at the</p> <p>20 point in time.</p> <p>21 CHAIR STONE: Yes. Okay.</p> <p>22 Moving on to Draft -- well, not Draft</p> <p>23 Proposal, but question -- potential Question Number 16:</p> <p>24 "Shall Section 3-3 of the Charter be amended to increase</p> <p>25 the time period for residency requirements in the County</p>	<p>1 CHAIR STONE: All right. Question Number 20:</p> <p>2 Article 8, Chapter 7, Department of Fire and Public</p> <p>3 Safety, Section 8-7.2, Article 8, Chapter 9. Well, I</p> <p>4 don't want to have to read through all of this for</p> <p>5 Sherry. So it's a bunch of -- a bunch of items in</p> <p>6 reference to create consistency in the powers, duties</p> <p>7 and functions of the Fire and Public Safety Commission</p> <p>8 with the Civil Service, Police and Liquor Commissions.</p> <p>9 And you can see, via the language, what those items</p> <p>10 were. Okay.</p> <p>11 (No Response.)</p> <p>12 CHAIR STONE: Question Number 21: Article 8,</p> <p>13 County Departments, create a declaration of policy. Is</p> <p>14 there any discussion?</p> <p>15 (No Response.)</p> <p>16 CHAIR STONE: Okay. So those are -- those are</p> <p>17 the questions that will be going out.</p> <p>18 Question to Ed.</p> <p>19 MR. KUSHI: Yes.</p> <p>20 CHAIR STONE: When -- I know this is a tough</p> <p>21 question. At what stage do you think -- or what</p> <p>22 timeframe are we looking at getting draft proposals on</p> <p>23 these remaining items?</p> <p>24 MR. KUSHI: Possibly in a week.</p> <p>25 CHAIR STONE: Very good. Now, is it fair to</p>
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<p>1 of Maui, and from the area which the person seeks to be</p> <p>2 elected from 90 days to one year before a candidate for</p> <p>3 Council files nomination papers?" Discussion?</p> <p>4 (No Response.)</p> <p>5 CHAIR STONE: No. Good.</p> <p>6 Question Number 17 -- very good. Question</p> <p>7 Number 17, Article 7, Section 7-3, Qualifications,</p> <p>8 requiring candidates for Mayor to be a resident of the</p> <p>9 County for a period of one year. Any discussion?</p> <p>10 (No Response.)</p> <p>11 CHAIR STONE: No. Good.</p> <p>12 Question Number 18: Article 8, Chapter 7, new</p> <p>13 section, Department of Fire and Public Safety, create a</p> <p>14 declaration of policy, Article 8, Chapter 7, Section</p> <p>15 8-7.2, Fire and Public Safety Commission, to add review</p> <p>16 personnel actions with the department for conformance</p> <p>17 with the policies under Article 8, Chapter 7.</p> <p>18 (No Response.)</p> <p>19 CHAIR STONE: Okay. Question Number 19,</p> <p>20 Article 8, Chapter 15, Department of Environmental</p> <p>21 Management, Section 8-15.3, to add sustainability to the</p> <p>22 powers, duties and functions of the Department of</p> <p>23 Environmental Management, as per the language provided</p> <p>24 there.</p> <p>25 (No Response.)</p>	<p>1 take those new -- those draft proposals out to the</p> <p>2 remaining balance of the public outreach meetings?</p> <p>3 MR. KUSHI: They will be part of the record,</p> <p>4 Mr. Chair.</p> <p>5 CHAIR STONE: Okay. Very good.</p> <p>6 MR. KUSHI: They will be part of the record</p> <p>7 which will be available to the public. The questions</p> <p>8 won't change.</p> <p>9 CHAIR STONE: Good. Very good. Okay.</p> <p>10 COMMISSIONER CRIVELLO: Good job.</p> <p>11 CHAIR STONE: Good job, Commissioners. Okay,</p> <p>12 we're moving on. Commissioner DeLeon.</p> <p>13 COMMISSIONER DELEON: I'll wait for the</p> <p>14 appropriate moment.</p> <p>15 CHAIR STONE: Moving through our agenda. Old</p> <p>16 Business. There is none.</p> <p>17 New Business. Any discussion on communication</p> <p>18 items?</p> <p>19 (No Response.)</p> <p>20 CHAIR STONE: No. No discussion on</p> <p>21 communication --</p> <p>22 COMMISSIONER DELEON: Mr. Chair?</p> <p>23 CHAIR STONE: Commissioner DeLeon.</p> <p>24 COMMISSIONER DELEON: In reference to the</p> <p>25 website, you can't find our schedule and you can't find</p>

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1 our proposals on the -- I mean, so that they're posted
 2 cleanly up there, you know. And I know that this is not
 3 Lisa's kuleana, really, it's two different departments,
 4 but it's kind of a problem that they direct people to a
 5 site where they can get the information. Most -- most
 6 articulate, capable folks these days want to go find it
 7 digitally; they don't want to have to have hard copy.
 8 And -- but just trying to find it. They might be there,
 9 but it shouldn't be an Indiana Jones kind of operation.
 10 It should be something that's on the surface that -- you
 11 know, with bells and whistles around it so that they can
 12 be -- they can find it. Because this is what we're --
 13 what we're going out to the public for, and the public
 14 should be able to find it.
 15 I made reference to the website for the
 16 calendar for the public hearing for the reporter and
 17 found out that they got the wrong one. They had the old
 18 one in their hand. So -- and got that one stopped, but,
 19 I mean, again, we need to have that really cleanly
 20 stated. I think I mentioned this to you and to staff
 21 before, but it's -- it's pretty important for just basic
 22 communication with the public we're trying to reach.
 23 CHAIR STONE: Very good. I think that topic
 24 is extremely important, and I think that our standing --
 25 or special committee on public relations should -- we

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1 should focus on that. So, Dave, after this meeting,
 2 maybe we should get together, and just give me a list
 3 and we'll nail that down. All right?
 4 COMMISSIONER DELEON: All right.
 5 CHAIR STONE: That is very important. I
 6 agree. Thank you.
 7 Further discussion on that topic?
 8 Commissioner Hedani.
 9 VICE-CHAIR HEDANI: Maybe we can ask Mike to
 10 follow up with the website manager for the County to
 11 make sure that happens.
 12 MS. KAHUHU: Chair, I'm sorry to interrupt. I
 13 am the one who deals with the website. So, you know, I
 14 post some stuffs myself; other things I have to request
 15 the web manager to do. You know, with regards to the
 16 public meeting schedule, as soon as the changes were
 17 made, it was posted. It just so happened that Dave got
 18 a call right before the change of the posting. So, you
 19 know, we've been trying to keep everything updated as
 20 possible. And I think I understand what Dave is saying,
 21 that, right now, on the main page, there's a Charter
 22 Commission link, you just click on it, it takes you
 23 right to the page. If you can just tell me right now
 24 exactly what you would like a link to on the main page,
 25 I can also get that going.

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1 COMMISSIONER DELEON: Why don't we have that
 2 conversation right after the meeting? It will only take
 3 a minute.
 4 CHAIR STONE: Yeah. I think if we could just
 5 quickly get together, our commission, our special
 6 commission. Thanks, Lisa. Thank you.
 7 MS. KAHUHU: Thank you.
 8 CHAIR STONE: Commissioner Okamoto.
 9 COMMISSIONER OKAMOTO: So the packet that we
 10 just went through, has that already been disseminated to
 11 the public and how?
 12 CHAIR STONE: This packet right here, just to
 13 be clear, this is the packet that's out there, correct?
 14 COMMISSIONER OKAMOTO: But how is it out
 15 there, besides being stacked on this table?
 16 MS. KAHUHU: Actually, those drafts, Chair,
 17 those drafts began in October. And they've been posted
 18 with our agenda material every meeting since October.
 19 CHAIR STONE: Uh-huh.
 20 MS. KAHUHU: That's why I list on the bottom
 21 of each one the dates that they came up in the meeting.
 22 CHAIR STONE: Very good. Very good. Thank
 23 you, Lisa, for that clarification.
 24 COMMISSIONER OKAMOTO: So, for tonight, people
 25 who come, or these next three meetings, they will get

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1 this packet. Does it include Number 16 to 21?
 2 CHAIR STONE: As questions. As questions. As
 3 we're looking at it right now, basically.
 4 COMMISSIONER OKAMOTO: You're saying yes or --
 5 CHAIR STONE: I'm saying -- I'm saying -- and
 6 correct me if I'm wrong, but my understanding is this is
 7 the packet that's going to the people, including the
 8 questions, correct, 16 through 21?
 9 COMMISSIONER DELEON: Yeah. Mr. Chair?
 10 CHAIR STONE: Hang on one second, Commissioner
 11 DeLeon.
 12 MR. KUSHI: Mr. Chair, my understanding is as
 13 far as from 16 through 21, like I told you, we don't
 14 have the amendments in Ramseyer form, but they have the
 15 questions because it's part of the agenda.
 16 COMMISSIONER DELEON: That's what I was going
 17 to say, part of the agenda.
 18 CHAIR STONE: Okay. Very good.
 19 MR. KUSHI: The previous ones, which you just
 20 went through, 1 through 16, or 15, they're not part of
 21 the agenda. They can be referenced via the website.
 22 Now, if the commission -- we could make copies, provide
 23 it at the meeting, if you want to, the packet that you
 24 just went over.
 25 CHAIR STONE: I think that's a very good idea.

<p style="text-align: right;">Page 77</p> <p>1 I'd like --</p> <p>2 MR. KUSHI: They're all part of the public</p> <p>3 record.</p> <p>4 CHAIR STONE: Very good. Lisa, is that okay?</p> <p>5 Can we bring copies this evening?</p> <p>6 MS. KAHUHU: Yeah, sure.</p> <p>7 CHAIR STONE: Great. Is that okay, Kay?</p> <p>8 COMMISSIONER OKAMOTO: Yes, that was my</p> <p>9 question. Thank you.</p> <p>10 CHAIR STONE: Very good. Any further</p> <p>11 discussion?</p> <p>12 (No Response.)</p> <p>13 CHAIR STONE: All right. Calendaring.</p> <p>14 Tonight, we have a meeting, this is Monday, December</p> <p>15 12th, 2011, 6:30 p.m. We'll be at the Lahaina Civic</p> <p>16 Center, 1840 Honoapiilani Highway, in Lahaina. So I</p> <p>17 will see all of you Commissioners there, unless there's</p> <p>18 any Commissioners who can't make it this evening.</p> <p>19 Commissioner Okamoto.</p> <p>20 COMMISSIONER OKAMOTO: Well, this is sort of a</p> <p>21 question, or a statement, probably. When we have people</p> <p>22 testifying and their five minutes are up, occasionally,</p> <p>23 you know, a Member has said, well, let them finish, and</p> <p>24 some of them will finish their statement, but others</p> <p>25 will keep going on and on. And I think we have to be</p>	<p style="text-align: right;">Page 79</p> <p>1 the Chair before they speak. Because I know it's</p> <p>2 difficult for Tonya in taking the minutes of the</p> <p>3 meeting, and it's difficult for people to complete their</p> <p>4 thoughts on something, you know, if everybody is jumping</p> <p>5 in on the discussion at the same time.</p> <p>6 CHAIR STONE: Thank you, Commissioner Hedani.</p> <p>7 Commissioner Moikeha.</p> <p>8 COMMISSIONER MOIKEHA: I've already let Lisa</p> <p>9 know I won't be here tonight for your public meeting,</p> <p>10 nor tomorrow. I will be attending on Wednesday night.</p> <p>11 CHAIR STONE: Okay. Thank you very much,</p> <p>12 Commissioner.</p> <p>13 Commissioner DeLeon.</p> <p>14 COMMISSIONER DELEON: I want to go back to</p> <p>15 what you just mentioned. Mr. Chair, I think it's very</p> <p>16 appropriate that the -- the public be allowed to speak</p> <p>17 to any item related to the Charter, not necessary -- not</p> <p>18 necessarily our agenda. This is a public meeting, it's</p> <p>19 about the Charter. It isn't about just a narrow</p> <p>20 selection of a very narrow concept. Somebody else might</p> <p>21 come to the table with something important. And if it's</p> <p>22 not on our agenda, we don't allow them to speak? If</p> <p>23 it's about the Charter, it should be -- if it's about</p> <p>24 Maui County government, to me, it should be permissible.</p> <p>25 CHAIR STONE: Okay. Thank you, Commissioner</p>
<p style="text-align: right;">Page 78</p> <p>1 consistent. If, you know, well, I like what they're</p> <p>2 saying, so I say let them finish, and the next person I</p> <p>3 don't, so nobody says that. I think we just need some</p> <p>4 consistency. If the five minutes are up, maybe you can</p> <p>5 say, "Finish your sentence," and that's it. But I know</p> <p>6 one time we had somebody that went on probably another</p> <p>7 five minutes --</p> <p>8 CHAIR STONE: Yeah.</p> <p>9 COMMISSIONER OKAMOTO: -- finishing their --</p> <p>10 their thought. And there's a difference between</p> <p>11 finishing your sentence and finishing your whole</p> <p>12 thought.</p> <p>13 CHAIR STONE: Very good. I take that -- I</p> <p>14 take that advice. Thank you very much, Commissioner</p> <p>15 Okamoto. And, again, we'll balance that out.</p> <p>16 I do want to point out that, obviously, the</p> <p>17 testifiers are only allowed to testify on items in our</p> <p>18 agenda. So I'm going to make sure we keep them on track</p> <p>19 on items that are in the agenda for this public outreach</p> <p>20 meeting. So we'll work on that. All right?</p> <p>21 COMMISSIONER OKAMOTO: Thank you.</p> <p>22 CHAIR STONE: Commissioner Hedani.</p> <p>23 VICE-CHAIR HEDANI: I just wanted to ask, in</p> <p>24 reviewing the minutes of our meeting, to, again, ask the</p> <p>25 Commissioners to make sure that they're recognized by</p>	<p style="text-align: right;">Page 80</p> <p>1 DeLeon.</p> <p>2 Commissioner Moikeha.</p> <p>3 COMMISSIONER MOIKEHA: I would support that on</p> <p>4 -- I mean, there's things that didn't get on the list,</p> <p>5 and maybe people have real strong concerns about that</p> <p>6 and they would like that opportunity. So I would</p> <p>7 support that.</p> <p>8 CHAIR STONE: Very good. Thank you very much,</p> <p>9 Commissioner Moikeha. Commissioner Wiger's shaking her</p> <p>10 head yes.</p> <p>11 COMMISSIONER WIGER: Absolutely.</p> <p>12 CHAIR STONE: Understood. Thank you for your</p> <p>13 input.</p> <p>14 Again, our next regular meeting, which will be</p> <p>15 here at the Planning Conference Room, Kalani Pakui</p> <p>16 building, Monday, January 9th, 2012, 10:00 a.m. So --</p> <p>17 COMMISSIONER CRIVELLO: Happy holidays,</p> <p>18 everyone.</p> <p>19 CHAIR STONE: Thank you. Happy holidays to</p> <p>20 all of you. And happy holidays to everybody watching.</p> <p>21 Thanks so much, Commissioners, for putting your holiday</p> <p>22 time into this. And you guys are doing a great job.</p> <p>23 Thank you very much.</p> <p>24 And before I adjourn, I want to see what</p> <p>25 Commissioner Okamoto has to say.</p>

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1 COMMISSIONER OKAMOTO: I thought the regular
 2 meeting on the 9th was changed, we weren't going to meet
 3 again until after we finished the public meetings. My
 4 calendar -- I mean, I know these calendars have changed.
 5 The one I'm looking at just has the 6:30 meeting at
 6 Paia.

7 COMMISSIONER CRIVELLO: I have regular
 8 meeting.

9 MS. KAHUHU: Chair?

10 CHAIR STONE: Lisa, please.

11 MS. KAHUHU: We did -- the last meeting, you
 12 did cancel the regular meetings in January, the regular
 13 meetings. I haven't changed the calendar yet, just in
 14 case something came up that maybe --

15 CHAIR STONE: Lisa, I know you love putting
 16 these in here for me. I really appreciate it. So,
 17 Lisa, our next regular meeting really is scheduled for?

18 MS. KAHUHU: If we cancel the January
 19 meetings --

20 CHAIR STONE: Which we already did.

21 MS. KAHUHU: -- it would be February 13th.

22 CHAIR STONE: Very good. Thank you, Kay, for
 23 pointing that out. And, Lisa, thank you for putting the
 24 bomb in there for me.

25 Our next regular meeting, actually, is

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1 February 13, 2012, here at the Planning Conference Room
 2 at 10:00 a.m., after we go through all of our public
 3 outreach meetings.

4 Kay, very good catch. Thank you.

5 Without objection, we'll adjourn this meeting
 6 at 11:35. Thanks very much for your guy's time. Aloha.
 7 (Meeting adjourned, 11:35 a.m.)

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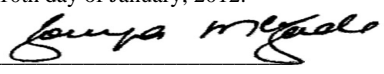
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2
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4 I, TONYA MCDADE, Certified Court Reporter of
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 9 represents, to the best of my ability, a true and
 10 accurate transcript of the proceedings had in the
 11 foregoing matter.

12 I further certify that I am not an attorney
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