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2 COUNTY OF MAUI, STATE OF HAWAII
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7 CHARTER COMMISSION
8 REGULAR MEETING
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14 Held at the Planning Department Conference Room, 250
15 South High Street, Wailuku, Maui, Hawaii, commencing at
16 10:01 a.m., on Monday, March 19, 2012.
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20 Reported by: Tonya McDade, CSR, CRR
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1 ATTENDANCE
2 COMMISSIONERS PRESENT:
3 Joshua A. Stone, Chair
4 Artemio C. Baxa, Member
5 Stephanie S. Crivello, Member
6 David P. DeLeon, Member
7 Frank R. De Rego, Jr., Member
8 Clifford P. Hashimoto, Member
9 Susan A. Moikeha, Member
10 Yuki Lei Sugimura, Member
11 Flo V. Wiger, Member
12
13 COMMISSIONERS EXCUSED:
14 Wayne N. Hedani, Vice-Chair
15 Linda Kay Okamoto, Member
16
17 STAFF PRESENT:
18 Sherry Broder, Commission Analyst
19 Edward S. Kushi, Jr., First Deputy Corporation Counsel
20 Lisa Kahuhu, Supervising Law Technician
21 ADMINISTRATION PRESENT:
22 Michael Molina, Executive Assistant to the Mayor
23 Sandy Baz, Budget Director
24 OTHERS PRESENT:
25 Jim Smith
John Blumer-Buell

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1 (Monday, March 19, 2012, 10:01 a.m.)
2 * * *
3 CHAIR STONE: Commissioners, attention please.
4 Thank you.
5 First, I would like to say hello to everyone
6 for attending this public meeting of the Charter
7 Commission. My name is Josh Stone, and I'm the Chairman
8 of the Maui County Charter.
9 If you need, there are copies of our agenda of
10 today's meeting available with for everyone with Lisa
11 Kahuhu, who is walking around, but presently sitting
12 there. Thank you, Lisa.
13 Before we begin public testimony, we have a
14 few items of business I would like to address. Firstly,
15 I would like to call this meeting to order as of 10:00
16 a.m., and recognize the Commissioners that are present
17 or excused.
18 Lisa, do we have any excused Commissioners?
19 MS. KAHUHU: Chair, Kay Okamoto is excused,
20 and Wayne Hedani will be late.
21 CHAIR STONE: Okay. Thank you very much.
22 Also, I'd like to present our staff. We have with
23 us Ed Kushi, Jr., Deputy Corporation Counsel. Ed,
24 thanks for being here.
25 MR. KUSHI: Good morning.

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1 CHAIR STONE: As well as Lisa Kahuhu, once
2 again, Supervising Law Technician. Thank you, Lisa.
3 We also have our court reporter, Tonya McDade.
4 Tonya, thank you for being here.
5 Lisa, just to check, are we expecting the EA
6 from the Mayor's Office today?
7 MS. KAHUHU: Yes. I believe Mike Molina will
8 be here at some point.
9 CHAIR STONE: Okay. Very good. So we're
10 awaiting Mike Molina.
11 I would also like to say thank you to Sherry
12 Broder, our Analyst. Thanks, Sherry, for being here.
13 And I do see that we have Mike Molina here and
14 present. So, Mike, thanks for showing up.
15 MR. MOLINA: Good morning, Chair. Sorry.
16 COMMISSIONER SUGIMURA: Sandy Baz is here.
17 CHAIR STONE: Also, I'd like to point out that
18 Sandy Baz -- the Budget Director, right -- is here.
19 Sandy, thank you for being here today. It's much
20 appreciated.
21 Also, I'd like to take this time to approve
22 the minutes from our last meeting.
23 COMMISSIONER SUGIMURA: So moved.
24 COMMISSIONER CRIVELLO: Second.
25 CHAIR STONE: We have a motion to approve the

<p style="text-align: right;">Page 5</p> <p>1 minutes, and it's been seconded. Any discussion? 2 (No Response.) 3 CHAIR STONE: No discussion. All right. All 4 in favor of approving our minutes from the last meeting, 5 please say "aye." 6 (Response.) 7 CHAIR STONE: All opposed, say "nay." 8 (No Response.) 9 CHAIR STONE: Minutes have passed. Thank you. 10 We'll now move on to oral testimony. And 11 before we begin, I would like to go over our oral 12 testimony rules. We'll call up each public testifier in 13 the order that they registered to testify. And each 14 person will have five minutes to testify on all items in 15 our agenda today. Following a testifier's testimony, I 16 will ask the Commissioners if they need clarification of 17 the presented testimony. 18 Lisa, if you would call up the first public 19 testifier. 20 MS. KAHUHU: Thank you, Chair. Jim Smith. 21 CHAIR STONE: Mr. Smith, thank you for being 22 here today. 23 ...BEGIN PUBLIC TESTIMONY... 24 MR. SMITH: Chairperson Stone, Members of the 25 Maui Charter Commission, this may be the last time I</p>	<p style="text-align: right;">Page 7</p> <p>1 And they come to you because they don't feel respected, 2 and you hold on to that and you say, okay, you got to be 3 respected, the Charter structure has to change. Hasn't 4 to do with efficiency; has to do with effect that they 5 don't feel respected. And I respect that. 6 I argued against it, but your embrace of 7 respect, I feel, is greatly appreciated. There's a 8 problem, though. The Charter, when it was written, 9 conceived of independent commissions. The Fire 10 Commission is an independent commission. The Department 11 of Parks is under the management of the Mayor. 12 Now, this has to be recognized by you. And it 13 doesn't appear to be recognized when you require that 14 the Fire Department set a timetable. So I would say 15 that you change that to include the Director of Parks 16 and the Fire Department and Public Safety. So I think 17 that -- that might make that work, not conceding the 18 point that I don't think they can work together because 19 the mission of the parks is primarily to provide safe 20 recreational opportunities. And the mission of the Fire 21 Department is emergency services. So it seems to me 22 that may be incompatible. That may be the source. But 23 respect is the issue. You've solved that one. So thank 24 you. 25 The next one is this Department of</p>
<p style="text-align: right;">Page 6</p> <p>1 have an opportunity to be here. I just want to say that 2 this Commission has really deepened my affection for 3 this political system. 4 As a Commission, your decisions, not as 5 individuals, but as a commission, reflect the value our 6 Charter puts on human dignity. It's the decision of the 7 Commission, not your own personal integrity that is 8 preserved by your work. And I am grateful. 9 I've submitted oral testimony -- not oral -- 10 written testimony related to my testimony here. And I 11 -- I would like for you to use that. And the idea is 12 the most important thing is your Commission Report, your 13 final Commission Report. In light of the Mayor's 14 insistence that he doesn't need to come to you for 15 changes to environmental management, nor Fire and Public 16 Safety. In light of that, I've submitted copies from 17 past Charter reports that address specifically that 18 issue. Okay. 19 So let me move to -- to specifically. And I 20 would like to apologize for my boldness the last time in 21 making a comment related to swimming and the ocean 22 safety officers. In a way, it was deprecating. And I 23 didn't mean that, but I was overcome by zeal that 24 sometimes happens when you're bold. 25 But the issue is they don't feel respected.</p>	<p style="text-align: right;">Page 8</p> <p>1 Environmental Management. They want a new department. 2 It's a new department. When you look at the -- the 3 amendments you have there, they're nothing like plan, 4 construct and operate, health issue type infrastructure, 5 nothing like that. In fact, it confuses me as to why 6 you would be setting policy in a department that says, 7 "Coordinate and develop policies." Well, what is that? 8 That's a legislative function. So it reflects, whoever 9 brought that to you, I am assuming it's the Mayor, it 10 doesn't understand. He doesn't understand the necessity 11 for a legislative power and an executive power that are 12 equal. 13 And so they come to you with these proposals 14 that really are a different department. So they put 15 up -- and we're going to be fooled. The person who is 16 voting is -- is not going to understand that this is a 17 department that you're putting inside of another 18 department. And I would ask you to reconsider this and 19 at least remove those provisions, give the Director of 20 Environmental Management some help. He's not concerned 21 with coordinating, developing policies with 22 organizations and implementing programs and dah, dah, 23 dah, dah, dah. He's building -- he's protecting the 24 health of the people with waste treatment and garbage. 25 But you got to be strong on this. And you've</p>

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1 been so strong and so patient for so long and enduring,
 2 subject to insults, my goodness. But that's the
 3 Commission, and that's who you are. And -- and the
 4 names of the Commissioners in the past, you're there,
 5 bright.
 6 MS. KAHUHU: Time.
 7 MR. SMITH: Thank you for your time.
 8 CHAIR STONE: Thank you very much, Jim.
 9 Commissioners, any clarification on the testimony?
 10 (No Response.)
 11 CHAIR STONE: No. Very good. Thanks again
 12 for coming over to meetings and giving your testimony.
 13 MR. SMITH: You're welcome.
 14 CHAIR STONE: Lisa, next testifier, please.
 15 MS. KAHUHU: John Blumer-Buell.
 16 CHAIR STONE: John, thank you for being here
 17 today.
 18 MR. BLUMER-BUELL: Aloha, Chair Stone and
 19 Members of the Commission. My name is John
 20 Blumer-Buell. I came out from Hana today. And I
 21 haven't seen you since the first time you were in Hana.
 22 Sorry I missed the second meeting, but I was traveling.
 23 And I watched as many of your meetings as I have been
 24 able to on Akaku.
 25 I am first speaking on behalf of the Hana

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1 Community Association Board. And I sent this over,
 2 emailed this to your office, last Thursday. And they
 3 haven't been able to give you a copy. It's short. Get
 4 a copy during the break, I understand. The subject is
 5 the Proposed Charter Amendment or amendments regarding
 6 Native Hawaiian (Kanaka Maoli) rights.
 7 Aloha, Chair Stone and Members of the Maui
 8 County Charter Commission. On March 13th, 2012, the
 9 Hana Community Association Board of Directors discussed
 10 possible changes in the County Charter to recognize
 11 Native Hawaiian/Kanaka Maoli rights. The basis of our
 12 discussion was a letter from Charter Commission Member
 13 Clifford Hashimoto with attached Maui County Council
 14 Resolution 10-79, "Recognizing United States public law,
 15 103-150, universal declaration of the human rights of
 16 1948, the International Covenant on Civil and Political
 17 Rights of 1966, and the International Covenant on the
 18 Economic, social and Cultural Rights of 1966.
 19 After discussion, the board voted to
 20 "Recognize Native Hawaiian/Kanaka Maoli rights within
 21 the County Charter." We trust the Charter Commission
 22 and your professional staff to decide if Native Hawaiian
 23 rights should be recognized in the Preamble, in an
 24 additional section or in both.
 25 And mahalo. I am John Blumer-Buell, Secretary

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1 for the Hana Community Association Board.
 2 And just in the interest of disclosure,
 3 Clifford is on the Hana Community Association Board. He
 4 was there for the discussion, but did not vote on this.
 5 Other than that, it was unanimous. And I would like to
 6 take off my community association hat and be John
 7 Blumer-Buell.
 8 I am strongly in support of this proposal to
 9 include amendments regarding Native Hawaiian rights.
 10 And I did follow the Resolution 10-79, when it came up
 11 before the Maui County Council and evolved into, I
 12 think, a very good resolution. This took some work,
 13 some hard work by the County Council with Corporation
 14 Counsel to come up with a resolution that was
 15 acceptable. And I think it's very important that
 16 everyone recognize the history that is in that
 17 resolution. This is not a controversial resolution.
 18 This is simply a historical fact that the County Council
 19 and Corporation Counsel agreed upon. So, personally, I
 20 would like to see some mention of Native Hawaiian rights
 21 in the Preamble, and the second section, specifically
 22 naming the County Council Resolution 1079. And I think
 23 that will be -- as Clifford said in his letter to you, I
 24 think this will be very helpful for someone that doesn't
 25 understand Hawaiian history, it's not new law, but it's

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1 an important recognition.
 2 And, you know, there's -- there's a lot of new
 3 people that are coming to Hawaii and Maui that don't
 4 have the benefit of much history. As Clifford pointed
 5 out, this would be a good direction and would recognize
 6 that Maui County and Hawaii are, in fact, part of
 7 Polynesia. And that's an important distinction. So
 8 appreciate your -- I really appreciate your service on
 9 this Commission and as good citizens.
 10 And even though I don't always agree with Jim
 11 Smith, I want to recognize him, too, for being a great
 12 citizen and participating in this. I really appreciate
 13 Jim, although I argue with him about things.
 14 Aloha.
 15 CHAIR STONE: Aloha, John. Thank you very
 16 much. One second.
 17 Commissioners, clarification or questions for
 18 John?
 19 (No Response.)
 20 CHAIR STONE: No. Very good. Very clear
 21 testimony. Thank you.
 22 Lisa, next testifier, please.
 23 MS. KAHUHU: Chair, no one else has signed up.
 24 CHAIR STONE: Okay. At this time I would like
 25 to ask members of the public if they would like to come

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1 forward and testify, they have the opportunity to do so
 2 now.
 3 (No response.)
 4 CHAIR STONE: Okay. Without objection, I
 5 would like to close oral testimony at this time.
 6 ...END OF PUBLIC TESTIMONY...
 7 CHAIR STONE: And, also, without objection,
 8 the Chair will accept and file all public communications
 9 for the record.
 10 And moving back to our agenda. Moving on to
 11 Communication Items. I'll ask the Commissioners if they
 12 have any discussion concerning the Communication Items
 13 we received? Go ahead, Commissioner DeLeon.
 14 COMMISSIONER DELEON: Mr. Chair, have we
 15 received a copy of the Council's resolution that we're
 16 referring to? We keep referring back to a resolution I
 17 have not seen.
 18 CHAIR STONE: We received it. I know I saw
 19 it. Lisa, do you have it?
 20 MS. KAHUHU: I have it.
 21 CHAIR STONE: Okay. I must have seen it via
 22 email.
 23 MS. KAHUHU: It was emailed to you.
 24 CHAIR STONE: It was emailed.
 25 COMMISSIONER DELEON: I didn't receive it.

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1 CHAIR STONE: Very good. We'll have that
 2 handed out right now. Thank you, Lisa.
 3 And while Lisa is doing that, Commissioners,
 4 any discussion on the other communication items?
 5 (No Response.)
 6 CHAIR STONE: No. Very good.
 7 COMMISSIONER BAXA: Mr. Chairman?
 8 CHAIR STONE: Yes, sir.
 9 COMMISSIONER BAXA: I think there was a
 10 communication from Commissioner Hashimoto.
 11 CHAIR STONE: One second, please. Judge Baxa,
 12 if you could use your microphone.
 13 COMMISSIONER BAXA: Mr. Chair --
 14 CHAIR STONE: No scoldings.
 15 COMMISSIONER BAXA: You asked whether there
 16 would be anything we would want to consider from the
 17 communications. I saw that there was a communication
 18 from Commissioner Hashimoto regarding the (inaudible).
 19 CHAIR STONE: Uh-huh.
 20 COMMISSIONER BAXA: Yeah. I would like to ask
 21 more -- more explanation from Commissioner Hashimoto on
 22 what he intends to do.
 23 CHAIR STONE: Very good. Go ahead, Cliff? Do
 24 you have some response to that on your communication
 25 item?

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1 (Audio feedback.)
 2 CHAIR STONE: That's a good way to solve it,
 3 Lisa. Testing. I think that worked, Lisa. Just bang
 4 it. Okay. I think we're back up and running. Very
 5 good.
 6 Cliff, would you like to discuss your
 7 communication?
 8 COMMISSIONER HASHIMOTO: Just as soon as I can
 9 find it.
 10 CHAIR STONE: Take your time. It is Item
 11 Number --
 12 COMMISSIONER HASHIMOTO: It came with --
 13 CHAIR STONE: With the packet.
 14 COMMISSIONER HASHIMOTO: -- 03-19-12, Item
 15 II-D.
 16 CHAIR STONE: Yeah.
 17 COMMISSIONER HASHIMOTO: This communication --
 18 CHAIR STONE: Cliff, sorry. If you can please
 19 use your microphone. Thank you.
 20 COMMISSIONER HASHIMOTO: This is a follow-up
 21 to my first communication regarding what I considered
 22 something that could have been -- that should have been
 23 taken care of very early on in our deliberations in,
 24 perhaps, a review of the Charter. So the reason I
 25 followed up with it is with -- because I -- I didn't

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1 I want anyone to think that I happened to be picking on
 2 the Police Department because I had something to -- to
 3 pick on them for. I was only using this as an example
 4 of why we should have reviewed the entire County Charter
 5 before we even started taking testimony. However -- but
 6 this will give you an idea of why I thought it should
 7 have been reviewed.
 8 I'll take any questions.
 9 CHAIR STONE: Thank you, Cliff.
 10 COMMISSIONER BAXA: Mr. Chair?
 11 CHAIR STONE: Commissioner Baxa, go ahead.
 12 COMMISSIONER BAXA: Yeah, if I may. Yeah.
 13 Commissioner Hashimoto, you're saying that the Charter
 14 right -- under the Charter right now, the Police
 15 Commission is a part of the department, including the
 16 Police Chief?
 17 COMMISSIONER HASHIMOTO: Yes.
 18 COMMISSIONER BAXA: The Office of the Police
 19 Chief. The question that I have with that is this: If
 20 that is the case, then the Police Commission is a part
 21 of the department?
 22 COMMISSIONER HASHIMOTO: Yes.
 23 COMMISSIONER BAXA: The way I read the present
 24 Charter is that the Mayor has the -- how shall I say --
 25 supervising authority over all the departments. And if

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1 that is the case, then does it mean that the Mayor has
 2 supervisory power over the Police Commission since the
 3 Police Commission is a part of the department?
 4 Mr. Chair, I am -- I don't know if I should be
 5 directing the question to you or to other Members of the
 6 Commission.
 7 CHAIR STONE: Very good. You know, I think
 8 that's something for Ed to help us out on. What are
 9 your thoughts, Ed?
 10 MR. KUSHI: If I understand the question,
 11 Mr. Chair, Member Baxa, let me response like this. The
 12 Mayor as the Mayor has the authority by the Charter -- I
 13 forget what section -- as a non-voting member of all
 14 boards and commissions. That's one.
 15 Secondly, most of the commissions and boards
 16 he nominates and the Council approves. Some commissions
 17 and boards have more authority than others in terms of
 18 appointing the department heads and the chiefs.
 19 Some commissions and boards have also direct
 20 investigative powers of the departments, subject to
 21 Charter provisions. They cannot interfere on a
 22 day-to-day basis.
 23 And most of the commissions that appoint their
 24 -- I'll put it this way: Most of the boards and
 25 commissions are within the department, not only the

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1 Police, the Fire, the Department of Water Supply, the
 2 Planning Commission, the Planning Department, look at
 3 the wording of the Charter provisions, they all say the
 4 department shall be made up of the chief, the staff, the
 5 department head and these commissions. But within those
 6 separate provisions itself, it does provide for a
 7 separate section of each board and commission. And this
 8 delegates, designates the powers and duties.
 9 So I am not sure if I answered your question,
 10 but, again, the Mayor is part of -- can sit on any board
 11 and commission in the County of Maui as a non-voting
 12 member.
 13 CHAIR STONE: Thank you, Ed.
 14 Judge Baxa, does that help you out?
 15 COMMISSIONER BAXA: I still have a question
 16 because if he is, in fact, the supervising authority for
 17 all the departments, then I still have a question
 18 whether, at some point, the Mayor does not have
 19 authority over the commission, Police Commission, as
 20 head.
 21 MR. KUSHI: Mr. Chair?
 22 CHAIR STONE: Yes, go ahead.
 23 MR. KUSHI: I'll just clarify this. Under
 24 Section 7-5, Article 7, Section 7-5, Powers and Duties
 25 of the Mayor. Number 1 -- "The Mayor shall be the chief

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1 executive officer of the County, the Mayor shall, I,
 2 exercise supervision, directly or through the Managing
 3 Director, over all departments enumerated in Article 8
 4 of this Charter and other agencies as provided by law."
 5 You know that term as well as I do, "as provided by
 6 law." It may mean as provided in this Charter or it may
 7 mean as provided by separate Council-enacted ordinance.
 8 And, again, Article 8 refers to executive
 9 departments. It doesn't reflect legislative agencies.
 10 COMMISSIONER BAXA: The executive -- the
 11 Police Department is one of the executive department, is
 12 it not?
 13 MR. KUSHI: Correct. Again, as provided by
 14 law. The Charter itself designates what the Police
 15 Commission does, who exercises authority over.
 16 CHAIR STONE: Yes. Thank you.
 17 Cliff, go ahead, please.
 18 COMMISSIONER HASHIMOTO: Then -- then this --
 19 this -- under Article 6, if you look at it, Article 6,
 20 Executive Branch, Section 4, 6-4, it reads: "The Mayor
 21 shall have the authority to appoint on a temporary basis
 22 an administrative head of any department provided that
 23 such department is one where the administrative head is
 24 appointed by the Mayor." Why is that there?
 25 MR. KUSHI: Correct. And in the case of

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1 Police and the Fire Chief, they're not appointed by the
 2 Mayor.
 3 COMMISSIONER HASHIMOTO: So that means he has
 4 no authority over the Chief of Police, as I read it.
 5 MR. KUSHI: In those departments.
 6 COMMISSIONER HASHIMOTO: I think anybody
 7 reading this would say the same thing.
 8 CHAIR STONE: I think, to get to the nuts and
 9 bolts of this discussion, what you're talking about,
 10 Cliff, is the fact that the Mayor doesn't have direct
 11 authority over the Chief of Police, the Chief of Fire
 12 and other -- other department heads that have
 13 commissions to appoint? Is that the discussion we're
 14 discussing?
 15 COMMISSIONER HASHIMOTO: Well, in a sense,
 16 that's my question. What I read here is that he
 17 doesn't. And I am bringing this to your attention
 18 because I think we need to discuss that and -- and clear
 19 that up, if I am wrong.
 20 CHAIR STONE: As I recall, one of the
 21 discussions was pertinent when we were out -- going out
 22 in public, getting public testimony, that question came
 23 up, many times, actually. There was -- as I recall,
 24 there was a lot of testimony on, you know, should the
 25 Mayor have direct control over the Police Chief and the

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1 Fire Chief or shouldn't he. And as I recall from public
 2 testimony, and one of the reasons why we didn't pursue
 3 that, is that the majority of people felt that the
 4 present system, as is, with the commissions appointing
 5 the chiefs and keeping it out of a political realm was
 6 -- was more comfortable for the public we heard from. I
 7 know we've had this discussion. So this isn't a new
 8 discussion to the Commission.

9 So I -- you know, I do respect wanting to
 10 understand completely what -- you know, understand this,
 11 but I also don't want to reopen discussion that we've
 12 already had right here at one of our final meetings
 13 before we hand off our report to the Council. So I --
 14 go ahead, Flo, please.

15 COMMISSIONER WIGER: Well, I think, you know,
 16 I -- I think where it comes out, based on what you've
 17 just said, is that, well, it could be or it couldn't be.
 18 It might or it might not. And I am reminded just in the
 19 last couple weeks, every time I pick up the paper and
 20 read about the situation in Kauai, where, apparently,
 21 the same thing has been going on. Well, maybe it is or
 22 maybe it isn't, we're not sure. Okay, we've got it
 23 settled now, there was some kind of an agreement
 24 reached, they're not going to say what it was, but it
 25 was an agreement reached. That -- that does not, I

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1 think, answer the question directly that has been
 2 raised.

3 Now, we may choose to say, well, we aren't
 4 going to answer the question, we're just going to let it
 5 be the way it is because people are okay with that. But
 6 there is a question as to whether or not the Mayor does
 7 have that power. And I think, at the very least, we
 8 ought to at least acknowledge we don't have a clear-cut
 9 answer to that. Because I don't think I have a
 10 clear-cut answer to it, based on what I've heard and the
 11 conversations that have come out.

12 CHAIR STONE: Thank you, Flo.
 13 Go ahead, Susan.

14 COMMISSIONER MOIKEHA: Thank you, Chair.
 15 I agree with the Chair. I think we've
 16 discussed this. It was open for discussion many times
 17 during this process. I can understand where my fellow
 18 Commissioners might still have a question of authority,
 19 but I think Ed has answered it in context of the Charter
 20 as it's written.

21 These commissions do have a different type of
 22 authority by being able to elect and fire these -- or
 23 appoint and fire these chiefs. And I am okay with that
 24 right now. Now, there may be individual situations that
 25 have arisen in the news, example was given Kauai, well,

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1 those are individual circumstances that we don't have
 2 all the facts about. And whether they lead us to
 3 believe who is in charge, to me, is not really relevant,
 4 for me at this point. And I am satisfied with the
 5 process that that discussion went through this
 6 Commission.

7 And I don't have anything more to add.
 8 And, you know, at this point in time, the
 9 commissions are what they are as dictated through the
 10 Charter. And their duties and functions are very clear
 11 to me.

12 Now, when you want to get into specifics,
 13 well, we don't know all those specifics, but that's not
 14 our duty.

15 I appreciate the question and -- and to go
 16 back and reflect, but I think we've discussed it.

17 CHAIR STONE: I am having Sherry take a look
 18 back. I don't want to speak out of place, but I do
 19 believe we even had a proposal on the table to remove.
 20 Go ahead, Dave.

21 COMMISSIONER DELEON: Well, at least in terms
 22 of the Fire Department, I made an explicit proposal,
 23 so -- it was rejected, but, I mean, I made a -- and it
 24 wasn't a complete, you know, take it back to the Mayor.
 25 It was, you know, allow the Mayor to have the final say,

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1 but have the boards act as the -- as assisting in the
 2 recruiting and reviewing authorities and making a
 3 recommendation to the Mayor. I thought that that did
 4 make a connection.

5 I still think we have a -- that's a missing
 6 part, but I am not going to go back to that debate
 7 because you've rejected it.

8 COMMISSIONER BAXA: Mr. Chair?
 9 CHAIR STONE: Yes. Go ahead, Commissioner
 10 Baxa.

11 COMMISSIONER BAXA: Mr. Chair, I will honor
 12 whatever the Commission does. I am just trying to voice
 13 my opinion in the sense that the way it reads now, like
 14 even with the Fire Department and with the Police --
 15 with the Police Department, where the Department of
 16 Police consists of the Police Commission and the Police
 17 Chief, and maybe -- as you said, maybe Fire Department
 18 as well.

19 And excuse me for going back to my argument,
 20 but I am going back to what I said. That since the
 21 Mayor, under the Charter, has the supervising authority
 22 over all the departments, my question is: Why then does
 23 the Mayor not have any authority over the Police
 24 Commission or with the Fire Commission? That is the
 25 question that I have.

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1 And shall it be there forever despite the fact
 2 that we know there might be a question about it? I will
 3 respect whatever the commission desires, but I am just
 4 voicing my concern whether that should be clarified or
 5 not.
 6 CHAIR STONE: Thank you, Commissioner Baxa.
 7 I believe that Corp Counsel answered that
 8 question, at least well enough for me, but, however,
 9 obviously, this is open. So, Commissioners, if anybody
 10 else needs further clarification from Ed on that, I
 11 mean, I -- we did have this discussion. In fact, now
 12 that it's flooding back to me after our 40-plus
 13 meetings, we did have the Chief of Police, at the same
 14 time the head, the Chair of the Police Commission, all
 15 on the same day as well as, you know -- and we discussed
 16 this exact topic then. I think that, really, this -- we
 17 even had a proposal on the floor concerning this issue.
 18 So we're a little bit late in the game, guys, to be
 19 going here.
 20 Go ahead, Frank.
 21 COMMISSIONER DE REGO: I would agree with
 22 Commissioner Moikeha that I think we vetted this issue.
 23 I think, philosophically, the larger issue here was what
 24 is the role of boards and commissions that hire and fire
 25 their particular directors, whether the Police Chief,

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1 whether it be the Fire Chief, whether it be the Liquor
 2 Commissioner. I think we not only had a discussion,
 3 particularly about Fire, but we actually brought in
 4 every commission that was run by a board -- every
 5 department that was run by a board and commission, and
 6 actually interviewed each of the directors and had the
 7 Commissioners come in as well. So if there is an open
 8 legal question about the Mayor's ability to act as an
 9 executive in particular circumstances, I think that will
 10 come out within the particular circumstances that will
 11 occur. And, if need be, it will be adjudicated by the
 12 courts. But at this point, I don't think we have the
 13 ability or the foresight to be able to clarify that
 14 issue. We've looked at this from several angles. And I
 15 think it's time to move on.
 16 COMMISSIONER BAXA: Mr. Chair?
 17 CHAIR STONE: Thank you.
 18 Commissioner Baxa.
 19 COMMISSIONER BAXA: Yeah. I think there is a
 20 fine distinction of what we are discussing about here.
 21 I just want the Commissioners to know that I do not
 22 dispute the fact that there is an express provision of
 23 law right now that it is the commission who has the
 24 power of appointment and firing in this Commission. The
 25 only question that I had is whether, in fact, the Police

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1 Commission or the Fire Commission should be a part of
 2 the department.
 3 CHAIR STONE: Okay. Thank you.
 4 COMMISSIONER BAXA: Because in this case, let
 5 us say there is a -- there is a Police Commission, there
 6 is -- there is a Police Commission, Police Chief. Who
 7 is the head of the department? Is it the Police
 8 Commission or the Fire -- or the Police Chief? Anybody
 9 can answer that question under the way the chapter is
 10 written right now?
 11 CHAIR STONE: Ed, you want to give us an
 12 answer to that?
 13 MR. KUSHI: The question is, who is the head
 14 of the commission?
 15 CHAIR STONE: Who is the --
 16 COMMISSIONER BAXA: Who is the head of the
 17 department?
 18 MR. KUSHI: The chief or the department head.
 19 CHAIR STONE: However -- here's a question
 20 from the Chair. However, that doesn't put the chief --
 21 the chief doesn't have control over the commission, does
 22 he, because the definition of the commission?
 23 MR. KUSHI: No, but the Chief --
 24 COMMISSIONER BAXA: (Inaudible.)
 25 MR. KUSHI: The chief or the department head

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1 answers to the commission.
 2 CHAIR STONE: The question, I believe, is --
 3 COMMISSIONER BAXA: Mr. Chair?
 4 CHAIR STONE: -- who is in charge of the
 5 department?
 6 COMMISSIONER BAXA: Who is the head?
 7 CHAIR STONE: Who is the head of the
 8 department?
 9 MR. KUSHI: The chief of the department as
 10 appointed by the commission.
 11 CHAIR STONE: Okay. Thank you.
 12 Flo, go ahead, please.
 13 COMMISSIONER WIGER: I just want to be clear.
 14 I was not suggesting that we needed to go back and
 15 revisit. What I was raising was the fact that we have
 16 -- it has been talked about, it has been vetted. That
 17 doesn't mean that we came to an unambiguous conclusion,
 18 at least in my mind. I don't think that it is an
 19 unambiguous conclusion. And I think what will
 20 ultimately happen is exactly as Commissioner De Rego has
 21 said, something is going to occur at some point in the
 22 future and it's going to wind up -- I would put money on
 23 the table today, it will wind up in court to get it
 24 settled because it is not clearly defined in the
 25 language, at least I didn't think it was. That doesn't

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1 mean that I think we can go back and revisit.
 2 CHAIR STONE: Thank you.
 3 Commissioner DeLeon, go ahead.
 4 COMMISSIONER DELEON: Unless there's a motion
 5 on the floor, I would recommend we move on.
 6 CHAIR STONE: Very good. Any further
 7 discussion?
 8 (No Response.)
 9 CHAIR STONE: Okay. We are moving on now to
 10 -- we have a new proposal, which was received on March
 11 5th, 2012, which is referenced as Proposal Number 11 in
 12 our agenda. And that is the Preamble proposal, which is
 13 recognition of Native Hawaiian history, culture, custom
 14 and traditions and uniqueness of Maui County. So we
 15 need to decide whether we're moving this proposal or
 16 keeping this proposal on the -- or putting -- actually,
 17 at this stage, if we're going to be putting this
 18 proposal on the ballot.
 19 So you have been handed a copy of suggestions
 20 for the Preamble, for amendments on the Preamble, to
 21 include Native Hawaiian culture language, which is this
 22 page here. Does everybody have that?
 23 Commissioner DeLeon.
 24 COMMISSIONER DELEON: Mr. Chair, I am not sure
 25 about this, what this is being proposed here. Is it the

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1 underlined language or is it the first paragraph of
 2 the -- that follows under the word Preamble?
 3 CHAIR STONE: Yeah, that question is.
 4 COMMISSIONER DELEON: (Inaudible.)
 5 CHAIR STONE: Where is this going to fall in
 6 the Preamble, please?
 7 COMMISSIONER DELEON: No, Mr. Chair. I am
 8 asking which language are we talking about. Are we
 9 talking about the underlying -- underlined language or
 10 are we talking about the paragraph that follows the word
 11 Preamble.
 12 MS. BRODER: The first paragraph, which is not
 13 underlined, would be the ballot question. Yeah, shall
 14 the Charter be amended. And then the second underline
 15 is some suggested language based on the general
 16 discussion that came up.
 17 I do want to make two corrections, though. I
 18 think the first word should be "we." "We the people."
 19 COMMISSIONER DELEON: (Inaudible.)
 20 MS. BRODER: We the people of the County of
 21 Maui hereby express, and it should say "our respect"
 22 rather than the -- just so it conforms to the way the
 23 other language in the Preamble is.
 24 COMMISSIONER DELEON: I am still confused.
 25 CHAIR STONE: Okay. This is my understanding,

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1 Sherry, correct me if I am wrong. My understanding is
 2 that the Preamble would -- would begin with the
 3 present --
 4 MS. BRODER: Yes.
 5 CHAIR STONE: -- language?
 6 MS. BRODER: Absolutely.
 7 CHAIR STONE: Then below the present
 8 language --
 9 MS. BRODER: Right.
 10 CHAIR STONE: -- would be the underlying, "We
 11 the people of the County of Maui hereby express the
 12 respect and aloha for the Native Hawaiian culture," dah,
 13 dah, dah.
 14 COMMISSIONER DELEON: Then what is this other
 15 part we're looking at down here?
 16 CHAIR STONE: Alternative language.
 17 MS. BRODER: Okay. I just --
 18 CHAIR STONE: Different option.
 19 MS. BRODER: Okay. We had a very short
 20 discussion here about it. And so I came up with this
 21 language, trying to put together what I heard at the
 22 table here. And then I just put this other section down
 23 here as an alternative, if, somehow or other, somebody
 24 else came up with something. So, I mean, you can just
 25 disregard it altogether. It was just to show you what

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1 the Hawaii State Constitution says about something
 2 similar.
 3 COMMISSIONER DELEON: Mr. Chair?
 4 CHAIR STONE: Yes. Go ahead, Commissioner
 5 DeLeon.
 6 COMMISSIONER DELEON: I much more support the
 7 second language below the paragraph -- below the word
 8 "Preamble." It starts, "We the people of Hawaii
 9 gratefully -- grateful, et cetera. That paragraph I can
 10 support. The other one is too political.
 11 CHAIR STONE: Okay. Thank you. First of all,
 12 we should probably have a motion whether to include
 13 this.
 14 COMMISSIONER CRIVELLO: Mr. Chair?
 15 CHAIR STONE: Yes, go ahead.
 16 COMMISSIONER CRIVELLO: I move to accept "We,
 17 the people of the County of Maui, hereby express our
 18 respect and aloha for the Native Hawaiian culture,
 19 language, traditions and history, and note the passage
 20 of the Apology Resolution by the U.S. Congress as well
 21 as many other state and federal laws for their benefit
 22 and life of their history" to the Preamble in the
 23 Charter.
 24 CHAIR STONE: Okay. Thank you. Is there a
 25 second? It has been seconded by Commissioner Hashimoto.

<p style="text-align: right;">Page 33</p> <p>1 Thank you. Okay. Discussion.</p> <p>2 COMMISSIONER DELEON: Makers of the motion.</p> <p>3 COMMISSIONER CRIVELLO: I think, being in line</p> <p>4 with our resolution that has come from the County</p> <p>5 Council, as well as where the Preamble for the State of</p> <p>6 Hawaii, and we recognize who the host culture is. And I</p> <p>7 am sure no one can look at that as political, but the</p> <p>8 fact that our host culture is part of our County, Hawaii</p> <p>9 nei. And for that reason, I see no harm, but more of an</p> <p>10 enhancement to our Charter that makes us the special</p> <p>11 islands that we are, Maui, Lanai, Molokai and Kahoolawe.</p> <p>12 CHAIR STONE: Thank you.</p> <p>13 Commissioners, further discussion?</p> <p>14 Commissioner DeLeon.</p> <p>15 COMMISSIONER DELEON: Well, I take concern to</p> <p>16 -- excuse me -- this is in reference to the apology</p> <p>17 resolution. I've heard repeatedly and frequent uses of</p> <p>18 that apology resolution as an argument that we are,</p> <p>19 therefore, not part of the United States. I've heard it</p> <p>20 repeatedly used. It's a wedge issue. It's something</p> <p>21 that comes up repeatedly by people with extreme views.</p> <p>22 And to say that it doesn't appear and we won't be</p> <p>23 offering that opportunity for that kind of wedge issue,</p> <p>24 again, is a mistake.</p> <p>25 I think the language in the second paragraph</p>	<p style="text-align: right;">Page 35</p> <p>1 about for everyone, in this county, there should be</p> <p>2 that.</p> <p>3 The rest of it talks more about acknowledging,</p> <p>4 specifically, the Apology Resolution to the Native</p> <p>5 Hawaiian peoples. It also acknowledges enactment of Act</p> <p>6 359 which gives us a unique status as Native Hawaiians.</p> <p>7 But what it's more about, as I read it, it's about</p> <p>8 recognizing or reconciliation, an acknowledgment, and</p> <p>9 that's acknowledging the steps that need to be taken to</p> <p>10 support the reconciliation efforts for the Native</p> <p>11 Hawaiian people, which almost leads me, in my own</p> <p>12 interpretation, to a restitution. Reconciling what was</p> <p>13 wrong, what was taken. So I am getting a different</p> <p>14 basis from what I read in the resolution.</p> <p>15 And I think there's two really good important</p> <p>16 points, as I've already said, that all residents of Maui</p> <p>17 deserve, as I read earlier, to be born free and equal in</p> <p>18 dignity and rights. But, yet, there's this special</p> <p>19 situation of going a step further.</p> <p>20 And this resolution is already out there, so</p> <p>21 the part about the laws and things, as it's stated here,</p> <p>22 doesn't bother me because the County's already stepped</p> <p>23 in that direction. And so has the Federal Government by</p> <p>24 the Apology Act, as well as Act 359. And so I don't</p> <p>25 have issues with that.</p>
<p style="text-align: right;">Page 34</p> <p>1 is much more of a Preamble nature. It doesn't speak to</p> <p>2 particular laws or doesn't speak to different points of</p> <p>3 history. It speaks to a general discussion about and</p> <p>4 shows a respect for Hawaiian culture, and uses the State</p> <p>5 motto. And I think I like the use of the State motto in</p> <p>6 this context. I think it's very appropriate in this</p> <p>7 context. So I like that second paragraph better.</p> <p>8 CHAIR STONE: Thank you.</p> <p>9 Commissioners, further discussion? Go ahead,</p> <p>10 Commissioner Moikeha.</p> <p>11 COMMISSIONER MOIKEHA: I think when -- this</p> <p>12 was brought up in Clifford's letter, and then I</p> <p>13 requested and got a copy, that's just been passed out,</p> <p>14 of the resolution that the County adopted. And he used</p> <p>15 this, I think, as his basis or foundation for wanting to</p> <p>16 put forth something in the Charter. When I read it,</p> <p>17 though, it has two different meanings. The first part</p> <p>18 of it talks about the residents of the County of Maui</p> <p>19 and encompasses everyone that lives here in this County</p> <p>20 and State and that we are born free and equal in dignity</p> <p>21 and rights, members of an international community, there</p> <p>22 is an obligation to promote and encourage respect for</p> <p>23 human rights and fundamental freedoms for all without</p> <p>24 distinctions of any kind, and it specifically lists</p> <p>25 those distinctions. So the first -- that one part talks</p>	<p style="text-align: right;">Page 36</p> <p>1 So I am just trying to see how to word this</p> <p>2 more specifically. Are we trying to help forward the</p> <p>3 reconciliation? Are we just trying to keep it broad and</p> <p>4 recognize, as it's stated here, respect for. I don't</p> <p>5 know. I am kind of undecided.</p> <p>6 CHAIR STONE: Thank you --</p> <p>7 COMMISSIONER BAXA: Mr. Chair?</p> <p>8 CHAIR STONE: -- very much.</p> <p>9 Commissioner Baxa.</p> <p>10 COMMISSIONER BAXA: Mr. Chair, I had the</p> <p>11 opportunity to read the first -- the proposal as</p> <p>12 proposed and with the alternative. I am of the view, as</p> <p>13 Commissioner DeLeon, that perhaps -- not perhaps, but</p> <p>14 sincerely believe that the language of the alternative</p> <p>15 is much better, but with an amendment, though. I would</p> <p>16 take out (inaudible). And the reason for that is that</p> <p>17 although we are all a religious people, there is some</p> <p>18 question as to whether it would be proper for us to put</p> <p>19 that in the Charter.</p> <p>20 And another reason is this: The language as</p> <p>21 is written in the alternative, it speaks us, our</p> <p>22 Hawaiian heritage, uniqueness of this island. In the</p> <p>23 first one, it says about aloha for the Native Hawaiian</p> <p>24 culture language. It refers to a people as if -- and I</p> <p>25 know that some of us are not Native Hawaiians, but, when</p>

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1 we became part of Hawaii, or Maui, we already -- in my
 2 own mind, at least, I consider myself as a part of the
 3 Hawaiian people, although I am Filipino by ethnic
 4 origin. By coming here, I consider my part -- myself as
 5 a part of Maui, no less, no more.
 6 And that's why I favor the second one. It
 7 speaks well of the Hawaiian heritage, uniqueness of the
 8 island. And, of course, we have this Hawaiian language
 9 here which further speaks of the (inaudible) we are
 10 trying to respect and incorporate in our Charter.
 11 The other one speaks about apology, it speaks
 12 about wrongs that had been done to the Hawaiian people,
 13 it speaks about, probably Hawaii, Maui, was usurped by a
 14 foreign power. I don't want to go back to that. I want
 15 to go back -- I just want to go to the original culture,
 16 to respect the original culture, to know the symbol, the
 17 symbolism that it stands for. Not about trying to bring
 18 back something about something that had been done wrong
 19 or not. That is a part of history, which we can study,
 20 but I don't think it should belong in the Charter.
 21 CHAIR STONE: Thank you very much.
 22 Commissioner DeLeon.
 23 COMMISSIONER DELEON: What we're talking about
 24 here is a preamble to a charter of a body of laws. It
 25 sets up a foundation of the County of government. It's

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1 not about an apology, it's not about history, it's not
 2 about past abuses.
 3 We had a testifier today was talking about
 4 this being about Hawaiian rights. I think that's
 5 handled in the State law. It's not handled in this law.
 6 We're all treated equally.
 7 So I believe the second paragraph, with the
 8 amendment that Judge Baxa proposed, would be more than
 9 adequate to address our deep aloha and respect for the
 10 Hawaiian culture in a context where it is for all of us
 11 and not just the persons who have special rights or
 12 rules or concerns about apologies for the past wrongs
 13 done. That's -- this is not here. We're not -- we're
 14 not there now. We're dealing with a structure for Maui
 15 County government. That's what we're talking about here
 16 in this Preamble.
 17 CHAIR STONE: Very good. Thank you.
 18 Commissioner Crivello.
 19 COMMISSIONER CRIVELLO: Thank you, Judge Baxa,
 20 for your expression with your feelings. I am willing to
 21 amend my motion --
 22 CHAIR STONE: One second. We have a technical
 23 difficulty.
 24 (Recess, 10:50 a.m. to 10:59 a.m.)
 25 CHAIR STONE: I would like to call this

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1 meeting back to order as of 11:00 a.m.
 2 And I would just like to point out to our
 3 court reporter, Tonya, if you need to break, you don't
 4 need to dump stuff our steno machine. We'll give you a
 5 break. You just have to raise your hand and ask.
 6 You're that important to us. Did you type that? Very
 7 good. Okay. So we know we're working.
 8 Cliff, please go ahead.
 9 COMMISSIONER HASHIMOTO: Sure. I would just
 10 like to point out for the Members that all of this
 11 awarding is not mine that -- that you're discussing now.
 12 All right. That's not my wording. No. My wording is
 13 simply this. It's only a suggestion or recommendation.
 14 It said here, in 2010, that the County unanimously
 15 passed a resolution recognizing the rights of Native
 16 Hawaiians. Don't forget that. The rights of Native
 17 Hawaiians. Everything that you read having to do with
 18 the -- the -- disregarding the Apology Resolution, which
 19 should help, this study that you're going to see that
 20 term, native rights, it's in, you know, every document
 21 having to do with how we became a state, how Hawaii
 22 became a state. And all I am doing is reminding you of
 23 that.
 24 Now, oftentimes, all of these ignore that. I
 25 mean, many of the things that we write to follow up on

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1 it, that's always ignored. So even in the language
 2 we're talking, that is (inaudible).
 3 CHAIR STONE: Thank you, Cliff.
 4 COMMISSIONER HASHIMOTO: You know, the funny
 5 part about it is I have a book here that uses that
 6 same -- very same term. Anyway, here it is. This is my
 7 -- the words that I wrote, if you want to read it. So
 8 you're not arguing with me, because I didn't write -- I
 9 didn't write that.
 10 CHAIR STONE: Okay. Thank you very much for
 11 the clarification.
 12 COMMISSIONER HASHIMOTO: Our Analyst is trying
 13 to help us develop that language.
 14 CHAIR STONE: Thank you, Cliff.
 15 Go ahead.
 16 COMMISSIONER SUGIMURA: So I have a point of
 17 clarification.
 18 CHAIR STONE: Sure.
 19 COMMISSIONER SUGIMURA: From my understanding
 20 of the procedures that the Charter Commission was
 21 following was that we would take up proposals and go
 22 through community meetings and take up issues that were
 23 with us for the duration. And this is brand new, to me,
 24 as it hasn't gone through all of the community meetings
 25 that we had. And it hasn't been on our agenda for

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1 longer than two weeks now. And I have the greatest love
 2 for the Hawaiian culture and people. In my business, I
 3 do aloha festivals, I do festivals of aloha, I do a lot
 4 of things that are culturally connected. So I am not --
 5 you know, this is even hard for me to say because I love
 6 the people and I -- and I am -- I agree with Judge Baxa
 7 in that I am not Hawaiian, but I feel that I am part of
 8 Hawaii. And I just don't think that, right now, in
 9 where we are, we're right about ready to submit -- or we
 10 are going to submit our report and this comes out of,
 11 really, left field. I just would like to know why.
 12 CHAIR STONE: Okay. Very good. Thank you,
 13 Yuki. It isn't mandated that we need to take -- go out
 14 with every proposal to like community outreach. It's
 15 not mandated on us. We're able to put proposals forward
 16 regardless of how we take it forward. What we do need
 17 to do is allow for input for our meetings to discuss --
 18 for the public to testify, which we saw today. But that
 19 -- that could be a part of your decision-making process
 20 on this, is that you -- you didn't have -- we didn't
 21 have the time to take this out to the public.
 22 So, no, it's not a requirement on a proposal,
 23 but, you know, as you say, the other proposals had that
 24 opportunity to go forward. So that's part of the
 25 decision-making process as individuals here, do you feel

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1 comfortable enough with the input that you have to make
 2 a decision to put this proposal forward.
 3 So thanks for that. It's a good point.
 4 Please.
 5 COMMISSIONER CRIVELLO: So as I was thanking
 6 Judge Baxa, Tonya gave me more time to work this out, I
 7 am willing -- though I do support the proposal with the
 8 apology, but I am willing to make an amendment that we
 9 shall have a Preamble or amended Preamble in the
 10 Charter, first of all. And it shall read. "We, the
 11 people of the County of Maui, mindful of our Hawaiian"
 12 culture -- "Hawaiian history, heritage and unique
 13 culture as a four-island county, dedicate our efforts to
 14 fulfill the philosophy decreed by the Hawaii State
 15 motto, 'Ua mau ke ea o ka aina i ka pono.'" So I
 16 believe the motto reminds us of -- of what we do is done
 17 in righteousness from those that have come way before
 18 us, and this motto still lives with all of us, with the
 19 hopes that things -- our land and all of our resources
 20 are done with righteousness. But I also feel that
 21 adding the Hawaiian history is that we cannot forget the
 22 history, in any culture, in any society, that we are to
 23 learn from our history. And the history includes all of
 24 us that have melded together, and -- and because of our
 25 host, the beauty of our host culture from the very

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1 beginning.
 2 And with that -- with that said, that's the
 3 amendment I would like to make.
 4 COMMISSIONER DELEON: Second.
 5 COMMISSIONER BAXA: Mr. Chair?
 6 CHAIR STONE: Very good. Okay. The
 7 amendment's been -- the amended motion has been
 8 seconded. Thank you, Commissioner DeLeon.
 9 Commissioner Baxa.
 10 COMMISSIONER BAXA: Mr. Chair, I would like to
 11 make a second -- a second to Commissioner DeLeon, but I
 12 was wondering if we could translate the Hawaiian words
 13 into English (inaudible)?
 14 CHAIR STONE: Commissioner --
 15 COMMISSIONER DELEON: The life of the land.
 16 CHAIR STONE: Commissioner, use your
 17 microphone.
 18 COMMISSIONER CRIVELLO: The life of the land
 19 is perpetuated in righteousness.
 20 COMMISSIONER BAXA: Because I don't think not
 21 every resident of people in the community know exactly
 22 what the words mean. So I was wondering if we could put
 23 that in parenthesis.
 24 CHAIR STONE: Very good. Okay. I will have
 25 Sherry quickly read back the amended motion. Okay.

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1 Ready?
 2 MS. BRODER: I get to correct it.
 3 COMMISSIONER CRIVELLO: Yeah.
 4 MS. BRODER: Okay. "We, the people of the
 5 County of Maui, mindful of our Hawaiian" heritage --
 6 "our Hawaiian history, heritage and culture and the
 7 uniqueness as a four-island county, dedicate our efforts
 8 to fulfill the philosophy decreed by the Hawaii State
 9 motto, 'Ua mau ke ea o ka aina i ka pono' ('The life of
 10 the land is perpetuated in righteousness.')

11 CHAIR STONE: Okay. Thank you very much.
 12 That was clear?
 13 COMMISSIONER CRIVELLO: Yes.
 14 CHAIR STONE: Very good. All right.
 15 Discussion? Go ahead, Dave.
 16 COMMISSIONER DELEON: You know, if this passes
 17 as is, it's going to set up another awkwardness, though.
 18 Because what we have here is, what, like a two-sentence
 19 Preamble here now, and we'll set this on top of that or
 20 below it or --
 21 CHAIR STONE: My understanding is below it.
 22 COMMISSIONER DELEON: Below it, okay. Because
 23 it's very -- by comparison, a very understated preamble.
 24 Just like very kind of wimpy, especially after you look
 25 at what's happening in the State Constitution. So I

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1 don't know. I do support the language, I hope it will
 2 work fine, but I am just wondering how it's going to
 3 look like in the context of the language that exists
 4 there now?
 5 CHAIR STONE: Okay. Thank you very much.
 6 Further discussion?
 7 COMMISSIONER CRIVELLO: Maybe we can ask our
 8 Analyst to work on this? (Inaudible.)
 9 CHAIR STONE: Very good. This is -- just so
 10 you guys know what is going on, we have Sandy Baz here
 11 as a specialist. So what I would like to see is if --
 12 if we do move this forward, Sherry will have the time to
 13 work on it as it's our last -- one of our last
 14 proposals. So when we get to that, we would -- we would
 15 be able to have something, hopefully, worked out that's
 16 interesting.
 17 Go ahead, Flo.
 18 COMMISSIONER WIGER: Well, one way to think
 19 about it in a different sense is that you use the
 20 language of the amended resolution as the large frame,
 21 and then, under that, is the County of Maui securing the
 22 benefit of the most possible form. Because then what
 23 you've done is you've created -- you've created a
 24 cultural framework that the rest of it flows out of, and
 25 the kinds of things that are in the Charter are more

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1 related to exercise County government, powers, all of
 2 that. So it may be just flipping. I mean, that might
 3 -- play with that, if that might do something a little
 4 bit better for it.
 5 COMMISSIONER BAXA: Mr. Chair?
 6 CHAIR STONE: Thank you for that input.
 7 Go ahead, Commissioner Baxa.
 8 COMMISSIONER BAXA: I have to thank
 9 Commissioner --
 10 CHAIR STONE: Wiger.
 11 COMMISSIONER WIGER: Thank you.
 12 COMMISSIONER BAXA: Your suggestion is very
 13 (inaudible) because it puts in context where we came
 14 from. And we are here now to reemphasize that.
 15 CHAIR STONE: Okay. Thank you. Very good.
 16 Any further discussion?
 17 (No Response.)
 18 CHAIR STONE: All right. We're going to take
 19 this to vote. We will get to this proposal again to
 20 discuss at a later stage. What we're voting on is
 21 whether we're going to put this amendment to the
 22 Preamble in there, and we'll talk about that later on in
 23 the meeting. All right. Because what we're doing is we
 24 have to first put it on as an item that will be going to
 25 the voters. Okay. So that is the vote, to add, as

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1 amended, to the Preamble as previously stated by
 2 Commissioner Crivello and our Analyst, Sherry. All in
 3 favor of adding this -- or sending this proposal to the
 4 voters, please raise your hand and say "aye."
 5 (Ayes.)
 6 CHAIR STONE: Unanimous. Okay. Thank you
 7 very much.
 8 Moving forward. Thank you. We now would like
 9 to invite up Sandy Baz, our Budget Director for Maui
 10 County. Sandy, thank you for your patience. Appreciate
 11 it.
 12 And Sandy is here today to discuss with us in
 13 regard to Proposal Number 3, Article 8, Chapter 16, Cost
 14 of Government Commission. And I believe the discussion
 15 was where to place the Cost of Government Commission.
 16 Is that why we brought Sandy here today?
 17 Frank, do you recall what the -- since you
 18 were kind of the spearhead of this particular proposal.
 19 COMMISSIONER DE REGO: I don't remember asking
 20 to bring Sandy Baz down here.
 21 CHAIR STONE: All right. Sandy, do you have
 22 something -- do you have a general statement concerning
 23 the County Auditor?
 24 MR. BAZ: No.
 25 (Laughter.)

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1 MR. BAZ: Yeah. No, not typically. If I did,
 2 I would provide public testimony on my own individual
 3 behalf.
 4 CHAIR STONE: Very good.
 5 Okay. I guess Chair will start this out. I
 6 recall that we were having discussion on where to place
 7 the Cost of Government Commission, whether or not the
 8 Cost of Government Commission should fall under the
 9 Office of County Auditor or should remain appointed --
 10 Commissioner DeLeon has some clarification. Go ahead,
 11 Dave.
 12 COMMISSIONER DELEON: I want to lay this on
 13 Flo -- not Flo -- on Kay. I think Kay might have had
 14 something to do with --
 15 COMMISSIONER WIGER: Yes.
 16 COMMISSIONER DELEON: -- asking for this
 17 conversation. But I think we had a problem here in that
 18 we're thinking in terms of the auditor outside of being
 19 part of the Legislative Branch. All boards and
 20 commissions are administrative. We don't have any
 21 legislative boards and commissions. I don't know
 22 whether structural you can have any legislative boards
 23 and commissions. And if they were, are they appointed
 24 by the legislature, in this case, the Council, or are
 25 they appointed by the Mayor. If you do that, then

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<p>1 you've taken away the advise and consent check and 2 balance that's traditional for American government. So 3 I am kind of confused about if we're going to put -- so 4 we're putting the auditor in the Legislative Branch, and 5 we're -- we're -- we're assigning a board -- a 6 commission to that. And now we're talking about putting 7 that under the auditor. The auditor, that will put that 8 commission out of the Administrative Branch and into the 9 Legislative Branch. It sets up a problem in my mind. 10 CHAIR STONE: Okay. And presently, just so 11 you guys know, in our language, Section 3-8.4 of the 12 present proposal, it's reading, "Cost of Government 13 Commission. For the purpose of carrying out the policy 14 set forth herein, in accordance with Section 13-2 of 15 this chapter, the Mayor, with the approval of the 16 Council, shall appoint a Cost of Government Commission 17 consisting of nine members. The commission shall be 18 advisory to the County Auditor." So with that 19 understanding, we've left it the same. 20 COMMISSIONER DELEON: Okay. 21 CHAIR STONE: So in this particular -- in our 22 proposal as we put forward, we've left the Cost of 23 Government Commission, appointed by the Mayor, approved 24 by the legislature, by the Council. And it seems like 25 we're all comfortable with that, is that correct?</p>	<p>1 He really didn't have much to say about Cost of 2 Government and where the Cost of Government sat. It was 3 primarily that the auditor, its function of the 4 legislature to control the oversight of the funds, so 5 the auditor should fall under legislature. Which is why 6 we took this path. 7 COMMISSIONER DE REGO: I think -- oh. I'm 8 sorry. 9 CHAIR STONE: Yeah, go ahead, Frank. 10 COMMISSIONER DE REGO: If I remember the 11 conversation correctly, he discussed the fact -- and we 12 can go back and look at the minutes for that meeting, 13 which was out in Kihei -- he preferred that option. He 14 said he hadn't thought about whether an independent 15 board, but, you know, in regards to all the other 16 counties, it was a legislative function. But I think I 17 remember him saying that he didn't have anything against 18 having a commission that would work with the -- the 19 auditor at that point. But we can go back and look at 20 the -- the minutes on that one. But I think he was a 21 little less categorical as people are making him out to 22 be in regards to that. I think he was a little bit more 23 open in giving the commission some leeway to make its 24 own decisions in that regard. But he did mention the 25 fact that the intent was to make it a creature of the</p>
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<p>1 COMMISSIONER SUGIMURA: Isn't that a valid 2 point? Aren't we back to where -- 3 CHAIR STONE: This is -- this is the point 4 Dave's making, is that he wants it like this, because if 5 the County Auditor is appointed by the legislature, by 6 the Council, that the oversight -- or the group 7 that's -- not oversight because they don't -- the Cost 8 of Government Commission we decided is not appointing 9 the auditor, as we had discussed. But their review 10 comes from an administrative side. So they're appointed 11 by the administrative side. So as far as the balancing, 12 first of all, that is how all of the boards and 13 commissions are presently formed. So there's conformity 14 there. And, also, that kind of adds to the checks and 15 balances. 16 I think that was your point, correct, Dave? 17 So, in other words, if it were appointed by 18 the legislature, the Council, then everything would be 19 appointed on that side, auditor and Cost of Government 20 Commission. 21 COMMISSIONER SUGIMURA: Isn't that what Mike 22 White, when he first proposed this, or when he was 23 talking to us, said that that was the problem? 24 CHAIR STONE: The problem Mike White pointed 25 out is that the legislature should appoint the auditor.</p>	<p>1 legislative body which controls the purse. 2 CHAIR STONE: Very good. 3 Commissioner DeLeon. 4 COMMISSIONER DELEON: This is a minor 5 correction. It was the Paia meeting. 6 COMMISSIONER DE REGO: Paia. Paia meeting. 7 I'm sorry. 8 COMMISSIONER DELEON: Yeah. And I don't think 9 we have anything for Sandy, we ought to let him know. 10 COMMISSIONER DE REGO: Yeah, exactly. 11 CHAIR STONE: You know, Sandy, how's the 12 weather today? 13 COMMISSIONER DE REGO: I certainly didn't ask 14 him to come in. 15 MR. BAZ: I was told the reason why I was 16 being asked to be here was so that I could provide 17 clarification over the Mayor's oversight of the 18 legislative budget. 19 CHAIR STONE: Oh, that's nice. Okay. 20 MR. BAZ: So -- 21 COMMISSIONER DELEON: Different animal 22 altogether. 23 MR. BAZ: Basically, the way that the Charter 24 Section -- Article 9 reads, in Section 9-2 -- it's been 25 revised, but the Mayor presents -- this is on or before</p>

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1 the -- I guess the 25th day of March, before the ensuing
 2 fiscal year, the Mayor shall submit to the Council an
 3 operating budget for the ensuing fiscal year including
 4 an executive operating budget and a legislative
 5 operating budget, a capital program and an accompanying
 6 message. What happens in functional activity is that
 7 the legislative branches of government, the Office of
 8 Council Services and the Office of the County Clerk,
 9 provide to us their proposed budget so that we can
 10 include that in the Mayor's proposed budget.
 11 Functionally, we don't modify that budget or provide any
 12 comment to their proposed budget. So as that comes
 13 about, there are -- it's really what they provide.
 14 Once the Mayor proposes his budget on -- you
 15 know, we're going to do it this Friday, they -- Council
 16 will then review that and -- and pass it out before the
 17 end of the year. So I guess it would be
 18 counterintuitive for us to modify the proposed budget
 19 from the Legislative Branch because it's going back to
 20 them, anyway, is part of that reason. And there's been,
 21 I guess, kind of an unwritten agreement that we don't
 22 mess around with their budget at all.
 23 CHAIR STONE: Very good.
 24 MR. BAZ: Yeah.
 25 CHAIR STONE: Thank you for the clarification.

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1 COMMISSIONER DE REGO: I think part of this
 2 discussion had to do with Section 3-8.4.1, "Prepare and
 3 submit to the auditor a request for an appropriation for
 4 the operation of the commission." And the question was,
 5 okay, it goes to the auditor, where does it go from
 6 there. And I assume, since it's a creature of the
 7 legislature, that the auditor's budget would go to the
 8 Council and would be a part of the folded -- what's
 9 folded in into the Mayor's budget over which the Mayor
 10 wouldn't have any jurisdiction at that point except to
 11 publish it with the rest of the budget. But that's what
 12 I am hearing correctly.
 13 MR. BAZ: From reading this, it does make --
 14 it does make it clear.
 15 I just wanted to make a comment, though. Of
 16 all the other commissions, it actually works the
 17 opposite. And that's probably because the Fire and
 18 Public Safety Commission oversees the chief, right. So
 19 the chief, it's the responsibility -- if you read
 20 Section -- Section 8 of -- 8-7.2, Fire and Public Safety
 21 Commission, Item Number 2, "Review and submit to the
 22 Mayor the department's request for an annual
 23 appropriation for the operation of the department." And
 24 so for -- for them, for Police, it's, basically, the
 25 opposite direction, is that the functional director, the

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1 -- in this case, it would be the auditor, would submit
 2 to the commission their budget to be reviewed and then
 3 submitted to the Mayor. And what it's sounding like is
 4 that you want to have the commission submit its budget
 5 to the auditor to submit to the Legislative Branch to
 6 submit to the Mayor for submittal in the proposed
 7 budget. So --
 8 CHAIR STONE: So, Sandy --
 9 COMMISSIONER BAXA: Mr. Chair?
 10 CHAIR STONE: -- that's where we need
 11 clarification, actually, is 3.8-4.1. Okay. In this
 12 particular case, the auditor is not answering to the
 13 commission. The Cost of Government Commission is not
 14 the overseeing body of the auditor. The auditor stands
 15 alone. The Cost of Government Commission is meant to
 16 work in conjunction with the auditor, where best or how
 17 -- how -- what's the standard way, for example. In this
 18 particular case, the Cost of Government Commission is
 19 submitting to the auditor a request for an appropriation
 20 for the operations of the commission, after which the
 21 auditor would submit -- include in the budget the Cost
 22 of Government and submit to the Mayor. Does that make
 23 any sense? Or -- I'm sorry -- to the legislature in
 24 this case, so the Council. Does that make any sense?
 25 MR. BAZ: I guess more of a comment than

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1 anything. If the Cost of Government Commission is, as
 2 expressed here, appointed by the Mayor, it would remain
 3 a administrative -- and this is from hearing your
 4 discussion here -- administrative commission. It
 5 wouldn't be necessary that the commission present its
 6 budget to the auditor. It would be that it would
 7 present its budget to the Mayor as it would now. And
 8 then the Mayor would then choose to put it into his
 9 proposed budget or not. And the Council could, of
 10 course, you know, have any amendment capabilities that
 11 they currently have.
 12 I do -- I guess one of -- I can foresee an
 13 issue if the Cost of Government Commission is an
 14 advisory commission to the -- to the auditor, and they
 15 have some direction that they want to move forward in
 16 the auditor does not agree with, if the budget for the
 17 Cost of Government Commission is reviewed and -- and
 18 proposed by the auditor to the Legislative Branch, then
 19 the Cost of Government Commission's request may not make
 20 it up there. Just to -- in the process.
 21 CHAIR STONE: Very good.
 22 COMMISSIONER BAXA: Mr. Chair?
 23 CHAIR STONE: Commissioner Baxa.
 24 COMMISSIONER BAXA: Yes, Mr. Chair. I think
 25 you have already articulated the difference between the

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1 different commissions, like a Police Commission and the
 2 Fire Commission, as distinguished from this commission
 3 here. The way I understand is that the role of the
 4 commission here is purely advisory. It's purely
 5 advisory. The director -- the auditor does not have to
 6 -- he can take a look at it, but he will be the
 7 decision-maker.

8 CHAIR STONE: Good point. Very good point.
 9 Okay. Go ahead, Dave.

10 COMMISSIONER DELEON: Correct me if I am
 11 wrong, Sandy, but, really, administrative boards usually
 12 don't have their own budgets. I mean, they usually fall
 13 underneath the department that -- they fall under the
 14 department's budget in some manner.

15 MR. BAZ: Yes.

16 COMMISSIONER DELEON: Except for maybe the
 17 Police Commission or the Fire Commission that have
 18 oversight roles that are independent of the chief.

19 MR. BAZ: The commissions have maybe funding
 20 allotted to them, similar to the Charter Commission has
 21 a certain amount of money allotted to it for its
 22 activities and functions. And other commissions have
 23 that same process. It's controlled by the director of
 24 that department. So like Pat Wong controls your budget.
 25 COMMISSIONER DELEON: So it's not a line item

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1 in the budget per se?

2 MR. BAZ: No. It will be in the
 3 administrative program budget.

4 COMMISSIONER DELEON: Thank you.

5 CHAIR STONE: Frank, go ahead.

6 COMMISSIONER DE REGO: For some reason, in
 7 it's wisdom, the prior Charter Commissions, when they
 8 dealt with the Cost of Government, actually had a
 9 provision for them to provide an annual budget for the
 10 operation of the commission.

11 Also, the other difference was they only had
 12 two-year terms.

13 So I guess in prior commissions, Charter
 14 Commissions, they saw this as being sort of a special
 15 commission that would do a special kind of work. And
 16 might need special kinds of appropriations to get that
 17 work done. All we did here was to take that same idea
 18 and incorporate it into the Cost of Government.

19 There's really no change. What we're doing by
 20 this is changing the jurisdiction of whose oversight of
 21 the commission from the -- this is the way I see it --
 22 from the Administrative Branch, Executive Branch, over
 23 to the Legislative Branch. Okay.

24 This is my logic again. I'll explain it in
 25 the way I see it. Is that the logic behind submitting

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1 the budget to the auditor is that budget from the
 2 auditor will then go on to the -- to the Legislative
 3 Branch of the Council. At this point, the Mayor -- even
 4 if the Cost of Government is under the Executive Branch,
 5 we could submit an appropriation and the Mayor could
 6 refuse it, anyway. So either way, I mean, that's not --
 7 that's a nonargument, right, in a sense. I mean, either
 8 one, your auditor could take it off, the Legislative
 9 Branch could take it out, the Mayor could take it out of
 10 his budget now, as it is, since we did submit a line
 11 item for the Cost of Government for next year. So I am
 12 not seeing the problem, but I guess -- I guess I am
 13 seeing this too simply, maybe.

14 CHAIR STONE: Sandy, do you have a response?

15 COMMISSIONER BAXA: Mr. Chair?

16 CHAIR STONE: One second, Judge Baxa.
 17 Go ahead, Sandy.

18 MR. BAZ: Yeah, Commissioner De Rego is
 19 correct in that, at any point, you know, the budget
 20 could be amended prior to the Mayor's proposed as well
 21 as after the Mayor's proposed during Council
 22 deliberations.

23 The real functional difference between the
 24 Administrative and Legislative Branch is more in the
 25 actual execution of the budget in expending the funds,

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1 and who has control over that. And that's not clear in
 2 here who would have control over that.

3 The commission wouldn't have control over
 4 expenditures of its own funds. It has to be a County
 5 official. And so the Legislative Branch, the Council
 6 Chair, is the one that signs off on, you know, those
 7 expenditures.

8 And then the Administrative Branch, the
 9 Executive Branch, you know, the Mayor's responsible for
 10 that.

11 So that would, I think, need to be clear as
 12 far as who is allowed to expend those funds.

13 CHAIR STONE: Okay. Thank you.
 14 Go ahead, Frank.

15 COMMISSIONER DE REGO: Can I ask Corporation
 16 Counsel, then, or the Legislative Analyst, in what way
 17 can we make this clearer about -- in terms of expansion
 18 of funds and support for the commission?

19 MR. KUSHI: Mr. Chair, I tend to agree with
 20 the Budget Director, it could go either way. Again, it
 21 is an administrative board or commission. The auditor
 22 has no power to -- no oversight over the commission.
 23 You're requesting operational funds from the auditor as
 24 compared to, maybe, the Mayor. I would think, as a
 25 practical matter, it's for the Commission to do with the

<p style="text-align: right;">Page 61</p> <p>1 Mayor. In either case, Mr. Baz is correct, it could be 2 watered down, could be policed, but the final say is the 3 Legislative Branch. 4 Again, I know -- I know what you said about 5 the initial Cost of Government, which is a 6 Charter-created commission, and does have that -- did 7 have that language in there. Other commissions, such as 8 the Civil Service Commission, requests the department of 9 budget for the entire department, Police and the Fire. 10 But, again, these are not typical administrative 11 commissions. 12 I note that the Salary Commission, there's no 13 reference to any budgetary request. But, again, it 14 doesn't fall under the Mayor's Office. 15 So, again, you know, it's -- I could care 16 less. You take your chance either way. 17 I just wanted to have Mr. Baz here to explain 18 the process. Even if it's a legislative function or 19 department, it all goes through the Mayor's Office. 20 CHAIR STONE: Thank you, Ed. 21 Okay. So, Sandy, this is -- this is a direct 22 -- this might clarify. Leaving Section 1 as is, is 23 functional, it would work, or is that dysfunctional and 24 shouldn't be worded that way? 25 MR. BAZ: Again, Section 1, prepare and submit</p>	<p style="text-align: right;">Page 63</p> <p>1 This just occurred to me, also, Mr. Chair, is 2 that you would think that the commission would submit 3 this budget to the Mayor because the Mayor appoints the 4 commission. An auditor has no appointing authority. 5 The Council has approving authority. But in the first 6 instance, the Mayor appoints the commission members. 7 CHAIR STONE: Okay. 8 MR. KUSHI: So, in that case, it should be 9 responsible to fund these -- that commission. 10 CHAIR STONE: Got it. Okay. Thank you. 11 Dave, go ahead. 12 COMMISSIONER DELEON: This whole conversation 13 brings me to the question of what is the role of the 14 Cost of Government Commission, in its role? I don't see 15 the function at this point. There might be a function, 16 but I am not sure what it is we're trying to drive to 17 here. I mean, if we're having an auditor, do we need to 18 have the Cost of Government Commission? And is it 19 oversight or is it adjunct or -- you know, if so, it's 20 going to be staffed by the Mayor's Office or by the 21 auditor, but it's going to get resources from another 22 location? I don't know, guys. I don't feel like we're 23 clear on this. 24 CHAIR STONE: Okay. Thank you, Dave. 25 Go ahead, Commissioner Baxa.</p>
<p style="text-align: right;">Page 62</p> <p>1 to the auditor a request for an appropriation for the 2 operation of the commission is functional. You know, it 3 would go -- as far as preparing the budget, it would be 4 prepared by the commission, reviewed by the auditor who 5 then submits it to the Council Chair who then submits it 6 to the Mayor who then submits it back to Council as a 7 proposed budget. 8 But it's not clear as to who would have the 9 authority to expend those funds. And maybe Corporation 10 Counsel can clarify that. If the commission -- again, 11 if the commission is a Executive Branch commission, 12 because it's appointed by the Mayor, would that then 13 give the Executive Branch control over the budget -- 14 over the expenditures? Or if it's here -- because you 15 are saying it's submitted to the auditor, is that what 16 the Charter Commission's, you know, desire is. 17 CHAIR STONE: Got it. Okay. Thank you. 18 MR. KUSHI: Mr. Chair? 19 CHAIR STONE: Yes, go ahead, Ed. 20 MR. KUSHI: In response to that, I would say 21 in the typical case, Executive Commission -- 22 administrative commission, the Mayor would have 23 oversight of the funds. The commission will not keep a 24 separate checking account, if that's what you are 25 asking.</p>	<p style="text-align: right;">Page 64</p> <p>1 COMMISSIONER BAXA: Mr. Chair, I might be 2 maybe too late, but, again, I have a serious question as 3 to this position, this Cost of Government Commission. 4 You know, we may just be trying to put so many 5 encumbrances on the operation of the department, we're 6 -- I did not object too much before because I had the 7 language there that it is advisory in nature. Advisory 8 in nature, it could just be put away. But it seems now, 9 the way we are discussing it, it seems that there is a 10 certain function that has to be followed through. Are 11 we putting encumbrances on the power of the auditor to 12 access his powers as auditor. (Inaudible.) 13 CHAIR STONE: Thank you. 14 Go ahead, Yuki. 15 COMMISSIONER SUGIMURA: Another point in this 16 section is that the Cost of Government would submit a 17 report of its findings and recommendations to the Mayor, 18 Council and County Auditor not later than 11 months 19 after appointment. So going to what -- the questions 20 that are coming out, why do you need the Cost of 21 Government if you have the auditor and who is he 22 reporting to -- or who are they reporting to? Whereas I 23 can see the value of it now, but if you have an auditor, 24 it's probably redundant, hopefully. 25 CHAIR STONE: Thank you.</p>

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1 Susan.

2 COMMISSIONER MOIKEHA: I am kind of confused,

3 too. So this Cost of Government Commission, is it

4 treated like the other boards and commissions, five-year

5 term, or -- where is the term for that here, term of

6 existence?

7 CHAIR STONE: Sherry.

8 MS. BRODER: Well, it would automatically be

9 governed by the Charter, by the provision in the Charter

10 section, whatever the section is governing boards and

11 commissions.

12 COMMISSIONER DELEON: 13.

13 MS. BRODER: But, basically, that was the

14 intent, to have it covered by Section 13.

15 COMMISSIONER MOIKEHA: I guess, for me, if it

16 is advisory, like other commissions are, such as

17 Planning, some of these others that don't have the

18 authority to hire and fire the directors, then why would

19 you need them to prepare a budget? As Dave said

20 earlier, it will come under the department head. And

21 there's full control any way you go with that as to

22 whether it's approved or not.

23 And I understand, like with the Planning

24 Commission, there are specific laws that dictate their

25 functions and duties and oversight and where they have

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1 -- where they're the ruling agency, such as SMA.

2 This is not real clear to me what this Cost of

3 Government Commission would do. Would it act

4 independently of the auditor, like a check and balance?

5 There's nothing specific for it, even in the oversight

6 description, if that's what it is.

7 CHAIR STONE: Frank, do you have some -- can

8 you give us some clarification on that? What do you

9 think?

10 COMMISSIONER DE REGO: Well, I thought we had

11 agreed at some point that it was important to have a

12 citizen participation in the auditing function continue

13 and as a continuation of the -- we can go back to the

14 minutes again, we had this discussion before -- which is

15 really kind of interesting now that we're kind of

16 revisiting this, as if there was no pallet or plate off

17 which we were talking about this before. And,

18 basically, I thought the agreement was -- at that

19 particular point, was that it was important to have a

20 citizen participation within the auditing function, that

21 this group would act as advisory to the auditor, that

22 they would -- the auditor, of course, is going to have

23 schedule of things that he or she would be looking at.

24 But the commission would also take on certain subjects,

25 certain ideas, make reports, make suggestions to the

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1 auditor of areas that they could look at. Okay. And

2 that would be the advisory function of the commission to

3 the auditor, just as it's now to the Mayor in regards to

4 looking at issues in regards to the departments.

5 It's interesting, if you read the Charter,

6 actually, even though we concentrate a lot on the

7 Mayor's department, the present language of the Cost of

8 Government Commission says it could also investigate

9 both legislative branches. You know, there might be an

10 advantage of keeping them an independent group and out

11 of the auditor's commission, keep Chapter 16 in -- as it

12 functions now. You know, that would be the cleanest way

13 of doing it. Right? And they would make

14 recommendations and just change the terms.

15 But, you know, we've come this far with it.

16 It seemed at the time to make sense, since they are

17 doing sort of a quasi auditing function at this point by

18 making recommendations to keep them within the County

19 auditors as sort of an advisory function. I think it

20 was Kay said that we could go back and revisit this at

21 another time, that as a tradition is -- transition is

22 going, it might be good to have a citizen participation

23 as we start this new auditor's office. So, for now, it

24 would be good to have the Cost of Government.

25 When Kay asked -- I think, now, I am

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1 remembering now when we asked Sandy to be here, it was,

2 you know, this whole idea of, okay, whose creature is

3 this, actually now. Okay. And who is it going to

4 report to, who is going to be in charge of its budget,

5 who -- as Dave says, who's going to be staffing it, et

6 cetera. You know, this is the reason why the movement

7 into the auditor's office.

8 Now, if the Commission has changed its mind

9 again, okay, on this, on hour 11, 11th hour, before

10 we're trying to get this out, then, you know, we should

11 -- we should either understand that we either want to

12 keep it as a creature of the Mayor's Office and keep the

13 Cost of Government there; abolish it -- these are things

14 I've brought up before -- or make it what we had thought

15 seemed more logical, as an advisor and a help and a

16 support to the County Auditor.

17 And that, in sum, is what I think the

18 arguments have been about over the last few months.

19 CHAIR STONE: Thank you, Frank. Frank, also,

20 just so the Commissioners understand, we did have this

21 language, as Frank pointed out, at our last meeting.

22 And we voted to put this forward to the voters. And the

23 only point of clarification we were looking for was

24 whether or not was this topic, 3-8.4.1. So I don't want

25 to go back through all of these proposals and reopen

<p style="text-align: right;">Page 69</p> <p>1 them because we've already voted them forward. A few of 2 them have some very tiny amendments, but we're not going 3 to rehash this whole thing now because we don't have the 4 time to do it. 5 COMMISSIONER BAXA: Yeah. Mr. Chair? 6 CHAIR STONE: So our discussion right now -- 7 let's stay focused on our discussion right now. The 8 discussion right now is, 3-8.4.1. And the reason why 9 Sandy's here is to clarify on whether or not this budget 10 should be submitted to the auditor or whether it should 11 be submitted to the Mayor or whether or not it's even 12 necessary to put language in for budget submittal. 13 COMMISSIONER DE REGO: Submittal, yeah. 14 CHAIR STONE: That's -- that's what we're 15 discussing. And I want to stay on track here. We're 16 not going to rewrite this thing. 17 COMMISSIONER BAXA: Mr. Chair? 18 CHAIR STONE: Go ahead, Commissioner Baxa. 19 COMMISSIONER BAXA: Yeah, Mr. Chair. I 20 understand the logic of what the Chair is saying, that 21 perhaps this is not the time to make amendments to what 22 something has already discussed. But what is happening 23 here is that there is some things that -- like -- my 24 understanding about advisory is this: Make suggestions, 25 when there are problems that arise at the particular</p>	<p style="text-align: right;">Page 71</p> <p>1 Susan, go ahead. 2 COMMISSIONER MOIKEHA: I would like to make a 3 motion. 4 CHAIR STONE: Please, go ahead. 5 COMMISSIONER MOIKEHA: To remove Section 6 3-8.4, Number 1, prepare and submit to the auditor a 7 request for an appropriation for the operation of the 8 commission. That's my motion. 9 CHAIR STONE: Okay. Very good. 10 COMMISSIONER CRIVELLO: Second. 11 CHAIR STONE: Thank you. We have a motion 12 that's been seconded. Thank you, Stacy. 13 I have a quick question before we open 14 discussion on that. Sandy, does that make sense that 15 there is no language about -- I mean, obviously, some of 16 the -- some of the commissions don't have a section 17 stating that they prepare their own budget. So that 18 would -- 19 MR. BAZ: That's correct. 20 CHAIR STONE: -- that would be fine, right? 21 MR. BAZ: It would be then up to the 22 commission's attached department to have a budget for 23 them, if a budget is needed. 24 CHAIR STONE: In this particular case, the 25 attached department would be? Auditor, right? County</p>
<p style="text-align: right;">Page 70</p> <p>1 moment, make suggestions. But to prepare the budget, to 2 go through the budget to go to the auditor, to me, that 3 is not in the nature of advisory anymore. 4 COMMISSIONER DE REGO: Can I say something? I 5 think you're misunderstanding what the thing actually 6 says. It's just for the operation of the commission. 7 Let's say we want to get a court reporter there to take 8 every word we say down. Okay. So we say, okay, we're 9 going to make an appropriation for, you know, \$10,000 or 10 \$5,000 that year for the operation of the commission. 11 We're not talking about the budget of operating the 12 department of County Auditor. It's -- if you read the 13 language, it's very, very only for appropriation for the 14 operation of the commission. 15 If, as others have said, that the operation of 16 the commission in other commissions, in other 17 departments, don't have this kind of line item, or 18 whatever it is, and feel like that it needs to be just 19 excised, fine, take it out. Or if you feel you want the 20 change to the request for the operation of the 21 commission to the Mayor, fine, we could do that. But 22 that's -- it has nothing to do with the operation of the 23 budget of the department. It's only a very narrow 24 question of a budget to operate the commission. 25 CHAIR STONE: Thank you, Frank.</p>	<p style="text-align: right;">Page 72</p> <p>1 Auditor. 2 MR. BAZ: Okay. I am not clear on that. 3 MS. BRODER: That's why the -- 4 CHAIR STONE: Ed, go ahead, please. 5 COMMISSIONER DE REGO: Go ahead, Ed. 6 CHAIR STONE: Ed has something. 7 MR. KUSHI: Mr. Chair, I just looked at the 8 previous section, Section 3-8.3. If you go down to 9 Subsection 4, Page 11, it says, "The County Auditor 10 shall submit its budget to the County Council and its 11 budget shall include the Cost of Government Commission 12 budget." So I believe it will be covered in that 13 section. 14 CHAIR STONE: Okay. So that would define 15 where this Commission's meant to sit? 16 COMMISSIONER CRIVELLO: I have a question. 17 CHAIR STONE: Yes. Go ahead, Stacy. 18 COMMISSIONER CRIVELLO: So in the existing 19 Charter, under Cost of Government Commission, with that 20 added on, are we going to clean up or delete "each such 21 commission shall prepare and submit to the Mayor a 22 request for an appropriation for the operation of the 23 commission?" 24 CHAIR STONE: That would be -- if we went with 25 this language, my understanding is we would delete that.</p>

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<p>1 MR. KUSHI: Mr. Chair, you would delete the</p> <p>2 entire section.</p> <p>3 CHAIR STONE: Entire section. Right?</p> <p>4 MR. KUSHI: Entire article.</p> <p>5 CHAIR STONE: Exactly. Because the whole Cost</p> <p>6 of Government now would move under County Auditor.</p> <p>7 MR. KUSHI: Correct.</p> <p>8 CHAIR STONE: So, now, Sandy, that would</p> <p>9 put -- as Ed had just stated, that would put the Cost of</p> <p>10 Government Commission under the auditor?</p> <p>11 MR. BAZ: From a budgetary perspective that's</p> <p>12 clear, yeah.</p> <p>13 CHAIR STONE: So we would be okay?</p> <p>14 MR. BAZ: Other than --</p> <p>15 CHAIR STONE: From a budgetary perspective?</p> <p>16 MR. BAZ: From a budgetary perspective, it</p> <p>17 would happen the same way any Legislative Branch of</p> <p>18 budget would --</p> <p>19 CHAIR STONE: Very good.</p> <p>20 MR. BAZ: -- be processed.</p> <p>21 CHAIR STONE: So everybody has got that?</p> <p>22 Sorry. We have -- and we have a motion, so --</p> <p>23 COMMISSIONER BAXA: Mr. Chair, with that</p> <p>24 clarification that, you know -- I mean, it's -- it's the</p> <p>25 auditor who is the boss there?</p>	<p>1 instead of the County Council, just submit it to the</p> <p>2 Mayor?</p> <p>3 COMMISSIONER SUGIMURA: Back to where it was?</p> <p>4 CHAIR STONE: Hang on one second.</p> <p>5 Go ahead. Susan.</p> <p>6 COMMISSIONER MOIKEHA: So the question is to</p> <p>7 take out submitting it to the County Council and submit</p> <p>8 it to the Mayor?</p> <p>9 MR. KUSHI: Correct.</p> <p>10 COMMISSIONER MOIKEHA: Why would we do that?</p> <p>11 If this is a appointed by the Council, isn't the --</p> <p>12 isn't the auditor's position appointed by the Council,</p> <p>13 as we're stating it here?</p> <p>14 COMMISSIONER CRIVELLO: Right.</p> <p>15 COMMISSIONER MOIKEHA: Then why aren't they</p> <p>16 answering to the Council for their budget? And don't we</p> <p>17 want to maintain that independence? Because what if the</p> <p>18 Mayor doesn't pass the budget or propose a budget for</p> <p>19 the auditors? I mean, isn't that the whole reason in</p> <p>20 keeping it independent?</p> <p>21 CHAIR STONE: Good question.</p> <p>22 Sandy, go ahead, first, please.</p> <p>23 MR. BAZ: Thank you. Functionally, I need</p> <p>24 to -- as Budget Director, I need to present a balanced</p> <p>25 budget. I need to present a budget that includes all</p>
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<p>1 MR. BAZ: It sounds like it.</p> <p>2 CHAIR STONE: Ed, just to be very clear on</p> <p>3 this, that's the case, correct?</p> <p>4 MR. KUSHI: The auditor would submit the Cost</p> <p>5 of Government Commission's budget. The auditor has no</p> <p>6 control over the Cost of Government Commission.</p> <p>7 CHAIR STONE: Okay.</p> <p>8 MR. KUSHI: And what I referenced you in the</p> <p>9 previous section is consistent with Commissioner</p> <p>10 Moikeha's motion.</p> <p>11 CHAIR STONE: Okay. Very good.</p> <p>12 COMMISSIONER BAXA: I have no objection, then.</p> <p>13 CHAIR STONE: Okay. Sandy, you had something?</p> <p>14 MR. BAZ: Maybe, since Mr. Kushi brought it</p> <p>15 up, the County -- the section -- Item Number 4 there in</p> <p>16 the 3-8.3, "The County Auditor shall submit its budget</p> <p>17 to the County Council," does that mean that it would be</p> <p>18 precluded from submitting it to the Mayor? And if</p> <p>19 that's the case, then the previous section, Article 9,</p> <p>20 would need to change in that the Mayor submits a full</p> <p>21 budget, including the Legislative Branch.</p> <p>22 MR. KUSHI: Mr. Chair?</p> <p>23 CHAIR STONE: Yes. Go ahead, Ed.</p> <p>24 MR. KUSHI: Director Baz, good point.</p> <p>25 Would the Commission entertain a change,</p>	<p>1 activities, functions, funding, of the whole County,</p> <p>2 including the Legislative Branch. And so it would need</p> <p>3 to come through the Mayor's Office in the proposed</p> <p>4 budget, anyway, just like the current process. I think</p> <p>5 that maybe you could add the County Auditor shall submit</p> <p>6 its budget to the County Council for submission in the</p> <p>7 Mayor's proposed budget, to make it clear, so that --</p> <p>8 because you don't want to -- I can't present a balanced</p> <p>9 budget if I don't know what the auditor's budget is</p> <p>10 going to be, just from a functional standpoint.</p> <p>11 CHAIR STONE: Uh-huh.</p> <p>12 MR. KUSHI: What would be the language?</p> <p>13 MR. BAZ: To add the words for -- let's see.</p> <p>14 So in Section 4, it might read, "The County Auditor</p> <p>15 shall submit its budget to the County Council for</p> <p>16 inclusion in the Mayor's proposed budget."</p> <p>17 COMMISSIONER BAXA: Mr. Chair, I would like to</p> <p>18 make that motion.</p> <p>19 COMMISSIONER MOIKEHA: We already have a</p> <p>20 motion.</p> <p>21 CHAIR STONE: We have a motion. Yes, we do</p> <p>22 have a motion on the floor. One second, please. All</p> <p>23 right. Susan, what do you think about a friendly</p> <p>24 amendment to your motion?</p> <p>25 COMMISSIONER MOIKEHA: Yeah, that's fine.</p>

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1 CHAIR STONE: Okay. So just for
 2 clarification, the friendly amendment to the motion
 3 would be under Section 3-8.3.4, "The County Auditor
 4 shall submit its budget to the County Council for
 5 inclusion in the Mayor's budget."
 6 COMMISSIONER DE REGO: Proposed budget.
 7 COMMISSIONER DELEON: Proposed budget.
 8 COMMISSIONER BAXA: Proposed budget.
 9 CHAIR STONE: "Mayor's proposed budget."
 10 MS. BRODER: So operating budget?
 11 CHAIR STONE: Sandy, Sherry has a question
 12 concerning that language. One second.
 13 MS. BRODER: Okay. If you look at Article 7,
 14 when it describes the Mayor's budget, it refers to it as
 15 an operating budget and a capital program. So would
 16 this just be part of the operating budget?
 17 MR. BAZ: Yes. It would be part of the
 18 operating budget. In Article 9, it talks about
 19 including an executive operating budget and a
 20 legislative operating budget. So if you want to be more
 21 clear, you could say the legislative operating budget.
 22 Would make it the clearest, I could assume, possible.
 23 MS. BRODER: You don't need the word
 24 "proposed," either, right?
 25 MR. BAZ: No.

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1 MS. BRODER: Because -- yeah, just the Mayor's
 2 legislative operating budget. Would that be --
 3 MR. BAZ: That wouldn't -- to me, it wouldn't
 4 make sense because it's not the Mayor's legislative
 5 budget.
 6 MS. BRODER: Okay. So just say the Mayor's
 7 operating budget?
 8 MR. BAZ: Unfortunately, I am not an attorney
 9 and wordsmithing isn't --
 10 CHAIR STONE: Yeah, this is an Ed or Sherry
 11 question, really.
 12 MR. KUSHI: Mr. Chair, Sandy, what if we just
 13 referenced Article 9?
 14 MR. BAZ: That would be a very, very good
 15 recommendation. If you reference as -- you know, as
 16 required in Section 9-2.
 17 MR. KUSHI: Article 9, Section 9-2.
 18 CHAIR STONE: Sorry, Ed, that was Article 9.
 19 MR. KUSHI: Section 9-2.1.
 20 CHAIR STONE: 9-2.1.
 21 MR. KUSHI: Which references the Mayor's
 22 obligation to submit a legislative budget.
 23 CHAIR STONE: Very good. All right. Just so
 24 we're clear, the motion that Susan had put forward was
 25 to remove Section 3-8.4.1, correct?

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1 COMMISSIONER MOIKEHA: Uh-huh.
 2 CHAIR STONE: And as a friendly amendment, to
 3 include "The County Auditor shall submit its budget to
 4 the County Council as required in Article 9, Section
 5 9-2.1."
 6 MS. BRODER: It's for inclusion in the Mayor's
 7 budget as required by.
 8 MR. BAZ: Or subject to Article 9. "The
 9 County Auditor shall submit its budget to the County
 10 Council subject to Article 9, Section 9-2."
 11 CHAIR STONE: Subsection 1, okay. Does that
 12 -- Ed, will that work?
 13 MR. KUSHI: Yes.
 14 And, Mr. Chair, before you take a vote on the
 15 friendly amendment, I hate to do this, but --
 16 CHAIR STONE: No. Go ahead.
 17 MR. KUSHI: If the commission would consider
 18 section -- another friendly amendment, Section 3-8.4.4,
 19 where it currently reads submit a report of its findings
 20 and recommendation to the Mayor, Council and County
 21 Auditor not later than 11 months after its appointment,
 22 I would recommend just say submit an annual report of
 23 its findings and recommendations to the Mayor, Council
 24 and County Auditor, period. "Not later than 11 months
 25 after its appointment" has caused consternation,

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1 continuously, as to when it's due because of the initial
 2 makeup of this Commission, two-year appointments. The
 3 reason why, I don't know why. You just say "an annual
 4 report" and it's clear. You can check with Mr. De Rego.
 5 CHAIR STONE: Very good. Thank you.
 6 Dave, go ahead.
 7 COMMISSIONER DELEON: I believe the commission
 8 was originally appointed on an annual basis and it was
 9 expended for two years to give them a lot of time to do
 10 that work.
 11 MR. KUSHI: Now, the proposal is for five --
 12 COMMISSIONER DELEON: Yeah, I know. So --
 13 yeah, I don't know. I wanted to have this -- I was
 14 thinking about the same issue. And I was wanting to
 15 have the discussion after we resolved the budget thing,
 16 because I think it's two separate items. But I think
 17 it's something that stood out for me as another
 18 anachronism in the Charter. Time changed, but the
 19 language didn't. Function changed, but the language
 20 didn't.
 21 CHAIR STONE: Okay. So, Susan, that's a
 22 second -- there's two friendly amendments there.
 23 COMMISSIONER MOIKEHA: So were we putting it
 24 all together, or are we taking the last one separate?
 25 CHAIR STONE: Well, I believe that the last

Page 81	<p>1 one could be taken separately. The first friendly 2 amendment has to be included. 3 COMMISSIONER MOIKEHA: Let's do that. 4 CHAIR STONE: Okay. So are we clear on what 5 we're -- we're discussing here? Okay. Very good. 6 Any further discussion? No further 7 discussion. Okay. 8 COMMISSIONER DE REGO: I am not clear on what 9 we're doing. So we're excising -- 10 CHAIR STONE: Okay. 11 COMMISSIONER DE REGO: We're excising 3-8.4.1? 12 CHAIR STONE: Yes. And included in -- if we 13 vote to do that, including -- in the removal of that 14 subsection, we would include the County Auditor -- we 15 would include an amendment to 3-8.3.4, that would read, 16 "The County Auditor shall submit its budget to the 17 County Council subject to Article 9, Section 9-2.1." 18 COMMISSIONER DE REGO: Then just excise, "Its 19 budget shall include the Cost of Government Commission 20 budget," just excise that whole thing? 21 CHAIR STONE: No. 22 MS. BRODER: Keep that. 23 COMMISSIONER DE REGO: Keep that. 24 CHAIR STONE: Yes, keep that language. 25 All right? So are we clear on that? Okay.</p>	Page 83	<p>1 a good day. 2 Okay. So looking at Section 3-8.4.4, Ed's 3 discussion, submit -- we need a motion here, if somebody 4 is going to support this. "Submit an annual report of 5 its findings and recommendations to the Mayor, Council 6 and County Auditor." Is there a motion to amend that 7 language? 8 COMMISSIONER DE REGO: I move, so move. 9 COMMISSIONER WIGER: Second. 10 CHAIR STONE: It's been put forward, a motion, 11 seconded. Thanks, Flo. Any discussion? 12 (No Response.) 13 CHAIR STONE: Okay. No further discussion, 14 all in favor of amending the language of that section, 15 please raise your hand and say "aye." 16 (Ayes.) 17 CHAIR STONE: Thank you. That's unanimous. 18 Okay. Very good. 19 So did you get all of that? 20 MS. BRODER: I did. 21 CHAIR STONE: Okay. Very good. 22 Tonya, are you doing all right, or do you need 23 some more coffee to spill on your computer? You sure? 24 Okay. We'll take a quick break. We'll be back here at 25 12:05. 12:05. Okay. Thank you.</p>
Page 82	<p>1 Very good. Let's take that to vote. All in favor of 2 supporting that motion with the friendly amendment, 3 please raise your hand and say "aye." 4 (Ayes.) 5 CHAIR STONE: Okay. All opposed? Wait. Hang 6 on one second. Let me count. One, two, three, four, 7 five, six, seven, eight, nine. Okay. Unanimous. Thank 8 you. Okay. So that motion passes. 9 COMMISSIONER HASHIMOTO: I have a question, 10 but that's okay. 11 CHAIR STONE: All right. Very good. 12 So now we should take a look, quickly, at Ed's 13 idea on -- one second. Do we have any further questions 14 for Sandy? 15 (No Response.) 16 CHAIR STONE: Sorry, Sandy. You were about to 17 stand there for another four hours. No further 18 questions for Sandy. Sandy, I want to really thank you 19 for your time. That clarification was extremely 20 helpful. 21 MR. BAZ: And I want to thank you for all the 22 wonderful work that you guys are doing as well. 23 CHAIR STONE: Thank you. 24 MR. BAZ: Thank you. 25 CHAIR STONE: Appreciate it. Take care. Have</p>	Page 84	<p>1 (Recess, 11:58 a.m. to 12:09 p.m.) 2 CHAIR STONE: I would like to call this 3 meeting back to order as of 12:10 p.m. 4 I wasn't fishing. 5 COMMISSIONER SUGIMURA: Josh? 6 CHAIR STONE: Yes. What's that? 7 COMMISSIONER SUGIMURA: He is going to wait 8 until you break. So you better go now. 9 CHAIR STONE: Do you need to get your inhaler, 10 Frank? 11 COMMISSIONER DE REGO: I'm fine. 12 CHAIR STONE: Frank, it would look really bad 13 for the commission if, on the last day, he drops dead. 14 COMMISSIONER DE REGO: I am good. 15 CHAIR STONE: Are you sure, Frank? 16 COMMISSIONER DE REGO: Yes, I'm good. Keep 17 going. 18 CHAIR STONE: Are you sure, because we may 19 have to discuss Proposal Number 3 again, and we know how 20 you get. 21 COMMISSIONER SUGIMURA: That's why he -- 22 COMMISSIONER DE REGO: I'm fine. I'm fine. 23 CHAIR STONE: All right. So, again, thanks 24 for Sandy Baz for being here and giving us his time. 25 We are moving into our proposals. I am going</p>

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<p>1 to Proposal Number 1, Preamble, which we had previously 2 discussed as tabled and moved to the end of our meeting 3 because we are getting print-ups of that proposal for 4 our Commissioners to discuss. 5 Proposal Number 2, which we have a small 6 amended draft language to approve. Let's see here. 7 Moving forward to Number 2. Proposal Number 2, which is 8 on page -- hang on one second. Oh, here it is, Proposal 9 Number 2, which is in reference to assigning Ocean 10 Safety and Rescue from Department of Parks to the 11 Department of Fire and Public Safety. And the amended 12 language, if you'll note -- this is Page 8 of the Draft 13 Report, the document that we've been handed, Page 8 -- 14 the amended language is under Section 8-7.4, which we've 15 already approved, "Provide and perform firefighting, 16 rescue" -- here's the amendment -- "rescue, shoreline 17 and ocean rescue and safety." Okay? The second 18 amendment, on 8-7.4. 19 COMMISSIONER DE REGO: Point of order -- 20 CHAIR STONE: Yes. 21 COMMISSIONER DE REGO: -- Mr. Chair. 22 CHAIR STONE: Yes. 23 COMMISSIONER DE REGO: My understanding from 24 last meeting is that we were going to get somebody to 25 check and make sure that was --</p>	<p>1 Safety shall provide the timetable for the transition to 2 include the functions of shoreline and ocean rescue and 3 safety." So I don't believe we -- I guess maybe we 4 should just approve. We'll approve that, as amended. 5 COMMISSIONER SUGIMURA: Move to approve that. 6 CHAIR STONE: Thank you very much. 7 COMMISSIONER DE REGO: Second. 8 CHAIR STONE: Seconded. All in favor of 9 approving the amended language -- discussion. 10 (No Response.) 11 CHAIR STONE: All in favor approving the 12 amended language, raise your hand and say "aye." 13 (Ayes.) 14 CHAIR STONE: Unanimous. Thank you. Okay. 15 Very good. 16 MR. KUSHI: Mr. Chair? 17 CHAIR STONE: Yes, please, Ed. 18 MR. KUSHI: I apologize. If I may bring up 19 this discussion on Proposal Number 1. 20 CHAIR STONE: I did move that to the end of 21 the meeting, but -- 22 MR. KUSHI: Oh, okay. I have a -- 23 MS. BRODER: I think he's talking about this 24 one. 25 Are you talking about term limits?</p>
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<p>1 CHAIR STONE: Yeah. Ed. 2 MS. BRODER: Did you check on "shoreline," the 3 use of the word "shoreline"? 4 COMMISSIONER DE REGO: You were going to go 5 back and check with Mr. Kalepa and Chief Murray. 6 COMMISSIONER DELEON: The original suggestion 7 was "beach." 8 MR. KUSHI: No, I didn't. 9 CHAIR STONE: Okay. We could probably 10 organize that now. 11 MS. KAHUHU: Chair? 12 CHAIR STONE: Lisa. 13 MS. KAHUHU: I did call Mr. Kalepa, and he 14 recommended "shoreline" over "beach." 15 CHAIR STONE: Saved. Saved. 16 MS. BRODER: I knew somebody had. 17 CHAIR STONE: Okay. Very good. Thank you, 18 Lisa. 19 Okay. Again, the language in Section 8-7.4.3, 20 including "shoreline and ocean rescue and safety," and 21 as well as Subsection 4, "shoreline and ocean rescue and 22 safety." 23 And then the language, Section 15-5, "Upon 24 adoption of the proposed 2012 amendment to Section 25 8-7.4, the Maui County Department of Fire and Public</p>	<p>1 MR. KUSHI: Right. 2 CHAIR STONE: Oh, excuse me. 3 MS. BRODER: It's, actually, the Preamble. 4 CHAIR STONE: Preamble was the last. I'm 5 sorry. My mistake. Going on to proposal -- we'll go 6 back to Proposal Number 1. Excuse me. Go ahead, Ed. 7 MR. KUSHI: Proposal Number 1 is about term 8 limits and then the maximum term limits. I would 9 suggest that, under Section -- the amendment to Section 10 3-2(5), second sentence, where it says, "No member of 11 the County Council," because you did have discussion, I 12 would suggest maybe adding the language effective 13 January 1, January 2nd -- 14 CHAIR STONE: Sorry, Ed, I don't know where 15 you are at. 16 MR. KUSHI: Page 7. 17 CHAIR STONE: Yeah. 18 MS. BRODER: So at the end of the second 19 sentence, the comma. 20 CHAIR STONE: On Section 2(5). 21 MR. KUSHI: Right. 22 CHAIR STONE: Second sentence. 23 MR. KUSHI: Before the second sentence. 24 MS. BRODER: At the end. 25 CHAIR STONE: Okay. Got it.</p>

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<p>1 MS. BRODER: Go effective --</p> <p>2 MR. KUSHI: "Effective January 2nd, 2014," and</p> <p>3 continue on, "No member of the County Council shall</p> <p>4 serve" -- this would, basically, confirm the</p> <p>5 Commission's understanding that you do not count time</p> <p>6 served.</p> <p>7 MS. BRODER: So where do you want to say</p> <p>8 "effective?" Where do you want to put that?</p> <p>9 MR. KUSHI: Effective January 2nd.</p> <p>10 MS. BRODER: But where?</p> <p>11 COMMISSIONER DE REGO: At the beginning of the</p> <p>12 sentence.</p> <p>13 MR. KUSHI: Beginning of the sentence.</p> <p>14 MS. BRODER: Beginning or end?</p> <p>15 CHAIR STONE: So just for clarification,</p> <p>16 "Effective January 2nd, 2014, No member of the County</p> <p>17 Council," dah, dah, dah.</p> <p>18 MR. KUSHI: Correct.</p> <p>19 CHAIR STONE: Yeah.</p> <p>20 MS. BRODER: Okay.</p> <p>21 MR. KUSHI: So I believe the commission did</p> <p>22 discuss about whether you include time served versus --</p> <p>23 COMMISSIONER DE REGO: January 2nd, 2014.</p> <p>24 CHAIR STONE: Do we have a motion to amend?</p> <p>25 COMMISSIONER WIGER: So moved.</p>	<p>1 COMMISSIONER DELEON: Okay. Thank you.</p> <p>2 CHAIR STONE: Very good. Thank you.</p> <p>3 Any further discussion?</p> <p>4 (No Response.)</p> <p>5 CHAIR STONE: All in favor of the motion,</p> <p>6 please raise your hand and say "aye."</p> <p>7 (Ayes.)</p> <p>8 CHAIR STONE: Very good. Unanimous.</p> <p>9 Commissioner Baxa, I'm sorry, I didn't get</p> <p>10 your vote. Okay.</p> <p>11 COMMISSIONER DELEON: Speed dating.</p> <p>12 CHAIR STONE: Speed dating?</p> <p>13 COMMISSIONER HASHIMOTO: A little slow, right?</p> <p>14 CHAIR STONE: Okay. So thank you, Ed. All</p> <p>15 right.</p> <p>16 So now we're looking at the whole proposal</p> <p>17 with the amended "effective January 2nd, 2014" language.</p> <p>18 There were amended items, amended language, again, in</p> <p>19 that same section, 3-2(5), as Dave had pointed out, the</p> <p>20 language added from any residency area. You can see,</p> <p>21 also, the language added at the end of that section,</p> <p>22 "three consecutive terms, whether such terms are</p> <p>23 two-year or four-year terms of office, or more than 12</p> <p>24 consecutive years, whichever time is longer." Also</p> <p>25 added, also amending language of Section 15-4,</p>
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<p>1 COMMISSIONER DE REGO: Second.</p> <p>2 CHAIR STONE: Seconded by Frank. Thank you.</p> <p>3 Any discussion on that language? Okay. All</p> <p>4 in favor -- oh, sorry. Go ahead, Cliff.</p> <p>5 COMMISSIONER HASHIMOTO: Can you read that one</p> <p>6 more time?</p> <p>7 CHAIR STONE: Sure. The language added would</p> <p>8 read, "Effective January 2nd, 2014, no member of the</p> <p>9 County Council, from any residency area, shall serve</p> <p>10 more than" five consecutive -- I'm sorry, that was</p> <p>11 removed -- "three consecutive terms, whether such terms</p> <p>12 are two-year or four-year terms of office."</p> <p>13 COMMISSIONER DELEON: Mr. Chair?</p> <p>14 CHAIR STONE: Yes, please.</p> <p>15 COMMISSIONER DELEON: This is not really</p> <p>16 pertinent to the item, but, I mean, it's part of the</p> <p>17 sentence, that's why I am bringing it up. Why do we</p> <p>18 need from any residency district or residency area?</p> <p>19 What is the -- I mean, if no councilmember can do it,</p> <p>20 then no councilmember can do it, period, no</p> <p>21 councilmember can do it.</p> <p>22 MR. KUSHI: He could change from Kahului to</p> <p>23 Lahaina.</p> <p>24 COMMISSIONER DELEON: Oh, okay. I see.</p> <p>25 CHAIR STONE: Smart guy, Ed.</p>	<p>1 transition provisions relating to staggering of</p> <p>2 Councilmember terms. And that is the language that we</p> <p>3 had voted to move to the ballot.</p> <p>4 So go ahead and take a minute to read that,</p> <p>5 because Tonya's fingers will fall off if I read that</p> <p>6 whole thing.</p> <p>7 Okay. And that is all of the amended language</p> <p>8 to that section. So do I have a motion to accept the</p> <p>9 amended language, including Ed's additional amendment</p> <p>10 today?</p> <p>11 Susan.</p> <p>12 COMMISSIONER MOIKEHA: Move to approve Section</p> <p>13 3-2(5)of the amended language.</p> <p>14 CHAIR STONE: How about we just move to accept</p> <p>15 Proposal 1?</p> <p>16 COMMISSIONER MOIKEHA: Or move -- I'm trying</p> <p>17 to follow what Mr. Hedani --</p> <p>18 CHAIR STONE: And then -- yeah.</p> <p>19 COMMISSIONER MOIKEHA: Yeah, Proposal Number</p> <p>20 1.</p> <p>21 COMMISSIONER DELEON: Second.</p> <p>22 CHAIR STONE: With the amendment by Ed?</p> <p>23 Susan?</p> <p>24 COMMISSIONER MOIKEHA: With the amendment.</p> <p>25 CHAIR STONE: Seconded by Dave DeLeon.</p>

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1 COMMISSIONER DELEON: Seconded, as amended by
2 Ed.
3 CHAIR STONE: Any further discussion?
4 (No Response.)
5 CHAIR STONE: Okay, no. Let's take that to
6 vote. All in favor of accepting the motion with the
7 amendment from Ed, please raise your hand and say "aye."
8 (Ayes.)
9 CHAIR STONE: Cliff.
10 COMMISSIONER HASHIMOTO: No, I had a question.
11 CHAIR STONE: Go ahead.
12 COMMISSIONER HASHIMOTO: Can Corp Counsel make
13 an amendment?
14 CHAIR STONE: Actually, we made the motion and
15 amendment.
16 COMMISSIONER HASHIMOTO: Okay.
17 CHAIR STONE: He gave us the suggestion.
18 COMMISSIONER HASHIMOTO: That's what --
19 CHAIR STONE: He gave a suggestion. Yeah.
20 Sorry. You're right, Cliff. Not amendment by Ed;
21 amendment by the Commission. Very good. Okay. Very
22 good.
23 Moving on, again, Proposal Number 3, I am
24 going to move to the end of the list because that is
25 being printed up as we speak.

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1 So Proposal Number 4, Article 13, General
2 Provisions -- actually, no, we have no discussion on
3 that because that -- there is no amended language.
4 Unless, of course, there -- I don't want to shove it
5 down anybody's throat. Anybody need to discuss that
6 proposal?
7 (No Response.)
8 CHAIR STONE: No. Okay.
9 Proposal Number 5, Article 14, add a new
10 section to require that the Charter be revised and
11 republished every time there's a new significant
12 amendment adopted. There's no language to discuss, no
13 changes. But --
14 COMMISSIONER SUGIMURA: I have input.
15 CHAIR STONE: Yes.
16 COMMISSIONER SUGIMURA: So just out of
17 curiosity, I asked the Clerk's Office, how much does it
18 cost to print the Charter and how widely is the books,
19 you know, requested. And they said, from the last time
20 they printed it, they have like 50 percent left. So I
21 just wonder how necessary it is, you know, to redo this,
22 because information can be gotten online. How many
23 people besides us, and maybe the people who came to
24 testify, really truly need this. And I think in Jeff
25 Kuwada's testimony, he did say this is a non-issue, in

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1 his letter to us last time. So just kind of --
2 CHAIR STONE: Thank you, Yuki.
3 Go ahead, Susan.
4 COMMISSIONER MOIKEHA: I have a question. How
5 is it printed on the website where this is found? Is it
6 in its entirety in the appropriate corrected -- like we
7 have three documents, we have the original, 2003, then
8 we have a section that says 2010, and then 2006. Is
9 that the way it reads on the --
10 MS. KAHUHU: I don't know.
11 CHAIR STONE: Go ahead. Dave, go ahead.
12 COMMISSIONER DELEON: I believe it is that
13 way. That's the way I've seen it. When you go to it,
14 you have to figure out which one you're asking for.
15 CHAIR STONE: Yeah. See, we've already
16 discussed this, I believe.
17 COMMISSIONER DE REGO: Even online, it's on --
18 I'm sorry.
19 CHAIR STONE: Go ahead, Frank.
20 COMMISSIONER DE REGO: Even online, it's the
21 2003, and then it has the addendums.
22 CHAIR STONE: Okay. Thank you.
23 COMMISSIONER DE REGO: I mean, that's even how
24 we got it in our kits, by the way. We got the 2003 and
25 then we got the two addendums attached. So they're not

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1 -- there's nobody going in there and immediately editing
2 and adding the sections and making it one flowing
3 document. I think this was part of our discussion the
4 last time that, you know, today's day and age, that
5 should happen within a month, at least, if not hours
6 after something is done.
7 CHAIR STONE: Thank you, Frank.
8 Flo, go ahead.
9 COMMISSIONER WIGER: Maybe they should just be
10 printing fewer copies. I mean, if that's an issue, that
11 they still have 50 percent less -- left, my suggestion
12 would be, well, maybe you don't need to print as many at
13 the beginning and then you wouldn't have 50 percent
14 left.
15 CHAIR STONE: Okay. Thank you.
16 COMMISSIONER WIGER: That's a thought.
17 CHAIR STONE: Susan, go ahead.
18 COMMISSIONER MOIKEHA: So we absolutely need a
19 Charter Amendment for the Clerk's Office to put this in
20 the correct enumerated one document, is that correct,
21 Analyst or Corp Counsel?
22 MS. BRODER: I mean, you don't need that, but
23 if you want to mandate it, you know, it can be mandated
24 in the Charter, it could become an ordinance, it could
25 be the Mayor, or whoever the person works for, but --

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1 but I think, you know, obviously, it's not being done.
 2 Even if you go to the website, it's not done.
 3 CHAIR STONE: Thank you, Sherry.
 4 Go ahead, Dave.
 5 COMMISSIONER DELEON: We are the Charter
 6 Commission. This is the Charter. This is coming out
 7 half-plugged. It's not coming out completely done
 8 right. And we need (inaudible). But so -- so the point
 9 of the exercise is, is to draw a line under -- I mean,
 10 the County Clerk, obviously, doesn't think there's a
 11 problem. And I think, to me, that is a problem that the
 12 County Clerk that doesn't get that there's a problem.
 13 So what does it --
 14 I really think what we're dealing with here is
 15 a lawyer thing. This is the way lawyers deal with law.
 16 They -- they put these addendums on top of addendums.
 17 And they're fine with that. And you go to the HRS,
 18 there's whole books of addendums to the other books.
 19 But we're talking about a 50-page document here.
 20 I mean, it's not like -- and for the County
 21 Clerk to argue with it, it's like that indicates that,
 22 if we don't put it in the Charter, then it isn't going
 23 to happen.
 24 CHAIR STONE: Thank you, Dave.
 25 Commissioner Baxa.

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1 COMMISSIONER BAXA: Mr. Chair, I am just going
 2 to comment on the printing. Yeah. While it may not be
 3 necessary to print as many copies as indicated, you
 4 know, I would still favor some form of printing would be
 5 made, because not all of us go online. You know, some
 6 people like to read, have papers. That is what we need,
 7 you know. I do not use the computer.
 8 CHAIR STONE: Okay.
 9 COMMISSIONER BAXA: I use the paper document.
 10 CHAIR STONE: Thank you. Very good.
 11 COMMISSIONER HASHIMOTO: I would like to add,
 12 Chair.
 13 CHAIR STONE: Yes, go ahead.
 14 COMMISSIONER HASHIMOTO: That most of the time
 15 the stuff you find on the internet is not always
 16 updated, neither. So --
 17 CHAIR STONE: All right. Thank you.
 18 Okay. Any further discussion on Proposal
 19 Number 5?
 20 (No Response.)
 21 CHAIR STONE: No. Very good. Moving on,
 22 Proposal Number 6. We do have an amended draft language
 23 to review on Proposal Number 6. And that is Article 13,
 24 General Provisions, Section 13-2, Boards and
 25 Commissions, Subsection 17, "Require the County of Maui

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1 to fund the defense of members of all County of Maui
 2 boards and commissions and to indemnify said members."
 3 After our last meeting, we voted to add Section -- this
 4 Section 13-2(18), and this amended language. And it is
 5 as follows: "The County shall provide the defense by
 6 the Corporation Counsel or funds to" -- oh, I'm sorry,
 7 guys. Page 17. Excuse me. Okay. Thank you. Section
 8 13-2(18), added, "The County shall provide the defense
 9 by the Corporation Counsel or funds to pay for the
 10 defense of members of all Maui County boards and
 11 commissions, and shall indemnify all members of boards
 12 and commissions in the event of a civil action as a
 13 result of the bona fide and good faith discharge of
 14 their official duties and indemnify said members in the
 15 event of the lawful performance of their duties. The
 16 County shall not indemnify a member for any portion of a
 17 judgment or settlement that represents punitive or
 18 exemplary damages." And that is the language we voted
 19 to put forward.
 20 So any discussion on the amended language?
 21 Yes, Commissioner Baxa.
 22 COMMISSIONER BAXA: The question that I have
 23 is as to the last sentence, "The County shall not" --
 24 CHAIR STONE: Indemnify.
 25 COMMISSIONER BAXA: -- "a member for any

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1 portion of a judgment that represents punitive or
 2 exemplary damages." The words, "exemplary damages," I
 3 understand a bit about punitive damages, that is to
 4 punish somebody, you know, for -- oh.
 5 CHAIR STONE: Commissioner Baxa, your mic,
 6 please.
 7 COMMISSIONER BAXA: Yes, Mr. Chair. I would
 8 like some more explanation as to what are covered by
 9 punitive or exemplary damages here.
 10 CHAIR STONE: Thank you. I'll hand that --
 11 COMMISSIONER BAXA: If we -- if we provide
 12 indemnify, then I hope that we are not taking away what
 13 we are providing. That is the question that I have.
 14 CHAIR STONE: Okay. Ed, some input on that,
 15 please?
 16 MR. KUSHI: Maybe Sherry can chime in on this,
 17 but my understanding of the state of the law, the case
 18 law with respect to it is that County -- state and
 19 county governments do not pay for punitive or exemplary
 20 damages.
 21 The definition of exemplary may be a word of
 22 art. I am not a trial lawyer, so I don't know exactly.
 23 I do know what punitive means.
 24 In the case where there is a possibility that
 25 whatever happened may result in punitive or exemplary

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1 damages, what the County would do, or our office would
 2 do is provide a defense to reserve preservation of
 3 rights like insurance companies do. But, again, in that
 4 case, maybe the best alternative is to pay for the
 5 defense for a third-party to defend. And it goes on a
 6 case-by-case basis.
 7 COMMISSIONER BAXA: Yeah.
 8 CHAIR STONE: Thank you.
 9 Let me ask, Sherry, too.
 10 COMMISSIONER BAXA: Maybe the question that I
 11 have is -- the first section looks like very nice, very
 12 good, providing the defense and indemnification. And
 13 then, at the very end, if we do not carefully try to see
 14 what it is, we might not be providing what actually we
 15 want to provide. That is the question that I have.
 16 CHAIR STONE: Very good. I am going to ask
 17 Sherry's opinion.
 18 MS. BRODER: Okay. Well, the defense is
 19 covered, but it wouldn't be proper to use public money
 20 for -- to pay in the event of a punitive damages award
 21 because punitive damages is only awarded where there's
 22 willful and wanton type of behavior or where there's bad
 23 faith. So, you know, I wrote that long memo about when
 24 you can or cannot utilize public funds.
 25 COMMISSIONER BAXA: What about exemplary

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1 damages?
 2 MS. BRODER: Well, I guess I see that as
 3 pretty much the same thing as punitive damages. It's
 4 just another term of art, another legal term for the
 5 same thing.
 6 MR. KUSHI: Mr. Chair, if I may?
 7 CHAIR STONE: Very good.
 8 MR. KUSHI: I discussed this with my staff in
 9 my office that would do this defense. In spite of what
 10 you have, the language here, our office would look at
 11 this language and continue what we do currently. If
 12 there's a lawsuit against a board or commission itself,
 13 of course, we defend. If it's individual members, we
 14 look at the facts of the allegations of the complaint.
 15 In any event, you go down to Council and get a
 16 resolution for defense.
 17 CHAIR STONE: Thank you.
 18 MR. KUSHI: Now, in the event the facts
 19 alleged, per investigation, that one of the board or
 20 commission members totally was not within their duties
 21 or responsibilities, we would so tell the Council and
 22 have them say, "Get your own attorney."
 23 CHAIR STONE: Okay. Thank you.
 24 Susan.
 25 COMMISSIONER MOIKEHA: So as you defined the

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1 last statement, Sherry, that the punitive damages would
 2 result out of their personal negligence or not following
 3 in good faith the duties that led to that.
 4 MS. BRODER: If there's a judgment for
 5 punitive damages, it would be based on the law, you
 6 know, what is the law to allow a punitive damages award.
 7 But, you know, punitive damages are only awarded in
 8 situations where, you know, people have acted outside
 9 the scope of their duties --
 10 COMMISSIONER MOIKEHA: Okay.
 11 MS. BRODER: -- outside --
 12 COMMISSIONER MOIKEHA: Stop there. So I
 13 understand this. So you're talking about the
 14 commissioner, they acted outside of their duties and had
 15 to pay punitive damages?
 16 MS. BRODER: If there's a judgment against
 17 them for it.
 18 COMMISSIONER MOIKEHA: Okay. So then the
 19 first part wouldn't apply. If they were acting out of
 20 their duties, then why would you need to have this extra
 21 line? They're already out of their duties and they
 22 wouldn't have indemnification.
 23 CHAIR STONE: I think I have something to
 24 chime in on that. This last sentence is in reference to
 25 judgment, not defense. So it's a judgment.

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1 COMMISSIONER MOIKEHA: But a judgment comes
 2 from a defense. There's a trial. There's something
 3 that happens that determines whether or not --
 4 CHAIR STONE: Right. But --
 5 COMMISSIONER MOIKEHA: Or even before you get
 6 to that stage.
 7 MS. BRODER: Well, I mean, I think that it's
 8 pretty clear in the first sentence that you only get
 9 indemnified for bona fide and good faith discharge of
 10 your official duties, and lawful performance of your
 11 duties, right? So that is the only thing that you would
 12 get indemnified for. So the second sentence further
 13 elaborates, one might say, on the first part -- the
 14 second part of the first sentence. But I think it just
 15 makes it more clear, that's all, as to what you
 16 indemnify for.
 17 CHAIR STONE: Flo, go ahead.
 18 COMMISSIONER WIGER: Okay. To follow, then,
 19 on it, and on what Susan is asking, does this say that
 20 if the -- if a person -- if a person feels that they
 21 were operating in good faith, and the County agrees and
 22 they said, "We'll provide a legal defense," and they go
 23 ahead and they provide the legal defense, but then, for
 24 whatever reason, who knows, that person winds up having
 25 to pay punitive damages, the County will not assume the

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1 responsibility. So they will have provided the legal
 2 defense, but if the judgment of whatever court is
 3 looking at it says, "Sorry, we're going to punish you,
 4 anyway, the County's defense wasn't good enough," the
 5 County will not assume punitive damages. Am I --
 6 MS. BRODER: Right.
 7 COMMISSIONER WIGER: Am I on the right track?
 8 MS. BRODER: Yes.
 9 COMMISSIONER WIGER: Very good. Thank you.
 10 CHAIR STONE: To put that forward, the County
 11 is not even allowed by law.
 12 MS. BRODER: It wouldn't --
 13 COMMISSIONER WIGER: Wouldn't be able to do
 14 it.
 15 MS. BRODER: You can't spend public money on a
 16 judgment of punitive damages.
 17 COMMISSIONER WIGER: Okay. Got it.
 18 MS. BRODER: You just can't.
 19 COMMISSIONER WIGER: Okay.
 20 CHAIR STONE: Dave, go ahead.
 21 COMMISSIONER DELEON: I see the main purpose
 22 of this exercise is to defend the commissions so that --
 23 against threatened suits to force them to comply to
 24 somebody's wishes when they don't necessarily want to.
 25 COMMISSIONER DE REGO: Right.

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1 COMMISSIONER DELEON: So somebody comes in and
 2 says, you know, I got a good case, I think you should be
 3 judging with me, if you don't, I am going to sue you and
 4 I am going to sue you individually. I've seen Maui
 5 County boards fold under that in the past. And -- and
 6 for good reason. I mean, you don't know you're
 7 protected.
 8 And so this sets up at least a reasonable
 9 expectation. A reasonable expectation on the Council
 10 that they're going to have to give good -- good
 11 reference to this. And if -- and if -- you know, if
 12 there is an inappropriate behavior, then that should
 13 show up in the Council hearing and along the way. I
 14 mean -- but just to leave it to a political body to make
 15 that decision without any kind of -- any kind of
 16 guidance from anywhere, I mean, the Charter, this will
 17 give them, the Council, real guidance that, unless
 18 there's good reason not to, then somebody has to make
 19 the determination. Corporation Counsel doesn't want to
 20 make the determination, so the Council has to make the
 21 determination. So if that's the case, then -- but this
 22 sets up a reasonable expectation you're going to be
 23 defended if -- if you mind your "P"s and "Q"s.
 24 CHAIR STONE: Very good.
 25 Any further discussion? I'm sorry. Zoned

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1 out. Do we have a motion to move this forward with the
 2 amended language -- or not move it forward -- to accept
 3 the amended language as written?
 4 COMMISSIONER DELEON: So moved.
 5 COMMISSIONER DE REGO: Second.
 6 CHAIR STONE: Seconded by Frank.
 7 No further discussion?
 8 (No Response.)
 9 CHAIR STONE: Very good. All in favor of
 10 moving proposal -- not moving -- of accepting the
 11 amended language for Proposal Number 6 -- thank you --
 12 please raise your hand and say, "aye."
 13 (Ayes.)
 14 CHAIR STONE: Commissioner Baxa?
 15 COMMISSIONER BAXA: I would --
 16 CHAIR STONE: Okay. Sorry. Sorry,
 17 Commissioner Baxa. We are voting.
 18 COMMISSIONER BAXA: Yeah. Because you asked
 19 me whether I am voting or not.
 20 CHAIR STONE: No. We took a vote. You're
 21 voting no.
 22 COMMISSIONER DELEON: You're voting no.
 23 COMMISSIONER BAXA: I am not voting for it. I
 24 would rather that it be taken out, the whole thing.
 25 CHAIR STONE: Okay. Thank you.

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1 So that was one, two, three, four, five, six,
 2 seven, eight "yes," one "no." Okay. Motion proposal as
 3 amended moves forward.
 4 Okay. Moving on to Proposal 7. Article 3,
 5 County Council Residency Requirements. There was
 6 amended language here, Section 3.3, Qualifications.
 7 That would be sentence -- let's see here. I guess it's
 8 part of sentence one, actually. And the added language
 9 would be: "And be a resident in the area of the county
 10 from which the person seeks to be elected for a period
 11 of one year before filing nomination papers." Okay. So
 12 that is what we had -- this language, what we had voted
 13 to move forward. Any further discussion? Okay. Could
 14 we have a motion just to accept the amended language?
 15 COMMISSIONER CRIVELLO: I so move.
 16 CHAIR STONE: Thank you, Stacy. And seconded
 17 by Yuki. Thank you. All in -- without discussion, all
 18 in favor of moving -- of finalizing Proposal 7, please
 19 raise your hand and say "aye."
 20 (Ayes.)
 21 CHAIR STONE: All opposed? Do we have any
 22 opposed? All opposed, raise your hand and say "nay."
 23 No. Judge Baxa, did you vote "yes?"
 24 COMMISSIONER BAXA: Yes.
 25 CHAIR STONE: Okay. That was unanimous.

<p style="text-align: right;">Page 109</p> <p>1 Okay.</p> <p>2 Moving on to Proposal Number 8, Article 7,</p> <p>3 Mayor Residency Requirements. There was a very minor --</p> <p>4 minor amendment, which was Section 7-3, Qualifications.</p> <p>5 And I'll just read it. "Any citizen of the United</p> <p>6 States who is a voter of the county and a resident of</p> <p>7 the county for a period of at least one year" -- that</p> <p>8 was what was amended -- "next preceding the filing of</p> <p>9 nomination papers."</p> <p>10 COMMISSIONER DE REGO: I move that we accept</p> <p>11 the Proposal 8 as amended.</p> <p>12 CHAIR STONE: Okay. Very good. We have a</p> <p>13 motion. Got a second?</p> <p>14 COMMISSIONER WIGER: Second.</p> <p>15 CHAIR STONE: Seconded by Flo. Thank you.</p> <p>16 Okay. Discussion? Any further discussion?</p> <p>17 (No Response.)</p> <p>18 CHAIR STONE: No. All in favor, raise your</p> <p>19 hand and say "aye."</p> <p>20 (Ayes.)</p> <p>21 CHAIR STONE: Okay. Unanimous. Thank you.</p> <p>22 Proposal 9. And we do have amended language</p> <p>23 on this as well. Article 8, Chapter 15, Department of</p> <p>24 Environmental Management, to add sustainability to the</p> <p>25 powers, duties and functions of the Department of</p>	<p style="text-align: right;">Page 111</p> <p>1 go: Proposal Number 10, Article 8, Chapter 7,</p> <p>2 Department of Fire and Public Safety, Section 8-7.2;</p> <p>3 Article 8, Chapter 9, Department of Personnel Services,</p> <p>4 Section 8-9.4; Article 8, Chapter 12, Department of</p> <p>5 Police, Section 8-12.2; Article 8 Chapter 13, Department</p> <p>6 of Liquor Control, Section 8-13.2, to provide</p> <p>7 consistency in the process in which the various</p> <p>8 commissions of the listed departments that appoint its</p> <p>9 directors or chiefs handle the evaluation and removal of</p> <p>10 its directors or chiefs.</p> <p>11 Okay. So starting with -- and this is on Page</p> <p>12 20. Okay. Starting with Section 8-2 -- sorry. Section</p> <p>13 8-7.2.5, Annually --</p> <p>14 COMMISSIONER DELEON: Mr. Chair?</p> <p>15 CHAIR STONE: Yes.</p> <p>16 COMMISSIONER DELEON: How are we going to do</p> <p>17 this? Gonna do each item, each part of it separately or</p> <p>18 as a whole?</p> <p>19 CHAIR STONE: Just for -- you know, I know</p> <p>20 it's very long. It is -- it should be done as a whole.</p> <p>21 COMMISSIONER DELEON: I have a question about</p> <p>22 the Liquor Control. I raised it the last time. I don't</p> <p>23 know whether it got answered.</p> <p>24 COMMISSIONER DE REGO: Answered, yeah.</p> <p>25 CHAIR STONE: Okay. Very good.</p>
<p style="text-align: right;">Page 110</p> <p>1 Environmental Management. And at our last meeting, we</p> <p>2 voted to add this amended language, Section 8-15.3,</p> <p>3 powers, duties and functions, Subsection 4, "Guide</p> <p>4 efforts to optimize opportunities for environmental,</p> <p>5 natural resource protection, sustainability,</p> <p>6 conservation, and restoration."</p> <p>7 COMMISSIONER DE REGO: I make a motion to</p> <p>8 accept --</p> <p>9 COMMISSIONER DELEON: Second.</p> <p>10 COMMISSIONER DE REGO: -- Proposal 9, as</p> <p>11 amended.</p> <p>12 CHAIR STONE: Okay. Thank you. A motion has</p> <p>13 been put forwarded, seconded by Commissioner DeLeon.</p> <p>14 Thank you. Any further discussion on this motion?</p> <p>15 (No Response.)</p> <p>16 CHAIR STONE: No. All in favor, raise your</p> <p>17 hand and say "aye," please. Come on, say "aye." Just</p> <p>18 for me.</p> <p>19 (Ayes.)</p> <p>20 CHAIR STONE: Thank you. Appreciate it.</p> <p>21 COMMISSIONER DELEON: Make us stay awake.</p> <p>22 CHAIR STONE: Motion passes. All right. That</p> <p>23 was Proposal Number 9.</p> <p>24 Moving on to Proposal Number 10. And we do</p> <p>25 have amended language for this proposal. Okay. Here we</p>	<p style="text-align: right;">Page 112</p> <p>1 COMMISSIONER DELEON: The question was --</p> <p>2 CHAIR STONE: Dave, give me one sec. Let me</p> <p>3 just review real fast.</p> <p>4 Yeah. It's only a couple of items. So I</p> <p>5 think we could -- we could do it as one thing. We could</p> <p>6 do it section by section. The ballot question's at the</p> <p>7 end. Okay.</p> <p>8 Dave, why don't you go ahead and bring up your</p> <p>9 concern now?</p> <p>10 COMMISSIONER DELEON: Well, I raised it the</p> <p>11 last time. I didn't know whether it got answered or</p> <p>12 not. And that was, does the Liquor Control Director</p> <p>13 have any kind of civil service rights. And if so, does</p> <p>14 that relate to -- does that relate -- how does that</p> <p>15 affect the power of the commission to hire and fire?</p> <p>16 CHAIR STONE: Very good. Ed.</p> <p>17 MR. KUSHI: Yes, Mr. Chair. I did follow up</p> <p>18 with the Director of Department of Personnel Services,</p> <p>19 Lance Hiromoto, who was here. And he did confirm that</p> <p>20 the Liquor Control Director, Director of Liquor Control,</p> <p>21 is exempt from civil service pursuant to Section 76-7,</p> <p>22 Hawaii Revised Statutes. Specifically list -- says</p> <p>23 positions -- at section -- Subsection 2 states,</p> <p>24 positions of offices elected by public vote, positions</p> <p>25 of heads of departments and positions of, one, first</p>

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1 deputy or first assistant of heads of departments shall
 2 be exempt. I guess the issue came up regarding Mr. --
 3 current director. And, apparently, before -- I mean,
 4 when he did take that position, he had what they call
 5 return rights.
 6 COMMISSIONER DELEON: Oh, okay.
 7 MR. KUSHI: And, apparently, his time to --
 8 COMMISSIONER DELEON: Utilize them.
 9 MR. KUSHI: Expired.
 10 COMMISSIONER DELEON: Okay.
 11 MR. KUSHI: So I think that was -- he had
 12 reference I had civil service protection, but he
 13 doesn't.
 14 CHAIR STONE: So, Ed, that doesn't affect the
 15 amendments we're suggesting?
 16 MR. KUSHI: No. Return rights are --
 17 COMMISSIONER DELEON: Thank you, Chair, that
 18 answers my question.
 19 CHAIR STONE: Sure. Okay. Very good.
 20 COMMISSIONER DE REGO: I have another question
 21 about the whole thing here. As I'm reading the Liquor
 22 Control Commission, part of the consistency was to also
 23 have consistency in terms of not only an annual
 24 evaluation, but, also, in terms of --I think there were
 25 there was language in regards to -- oh, okay. I'm

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1 sorry.
 2 CHAIR STONE: It's down there at the bottom,
 3 Frank.
 4 COMMISSIONER DE REGO: I'm sorry.
 5 CHAIR STONE: Okay. So -- okay. So,
 6 basically -- let me just read the --
 7 COMMISSIONER DE REGO: Okay. I --
 8 CHAIR STONE: Because I need clarification
 9 myself okay. So Chapter 7, Department of Fire and
 10 Public Safety; Chapter 9, Department of Personnel
 11 Services; Chapter 12, Department of Police; and Chapter
 12 13, Department of Liquor Control. Article 8 of the
 13 Charter be amended to provide consistency in the process
 14 in which the various commissions of the listed
 15 departments that appoint its directors or chiefs handle
 16 the evaluation, removal of its directors or chiefs. So
 17 let me just go through and I'll read what we're -- what
 18 we're changing just quickly so that we understand that
 19 it's consistent across the board. That's the goal.
 20 COMMISSIONER DE REGO: That's the goal.
 21 Right.
 22 CHAIR STONE: Okay. So just quickly, in order
 23 to make it consistent, under Fire and Public Safety
 24 Commission, Section 8-7.2, Subsection 5, we added the
 25 language "annually review and evaluate" the performance

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1 of the Fire Chief, to make it consistent with the other
 2 commissions.
 3 And then, under Section 8-9.4, Civil Service
 4 Commission, Subsection 5, we added, "Annually review and
 5 evaluate the performance of the director of Personnel
 6 Services and submit a report to the Mayor and the
 7 Council." Okay. So that makes them the same.
 8 And then, in Section 8-12.2, Police Commission
 9 Subsection 4, we added, "Annually review and evaluate
 10 the performance of the Chief of Police and submit a
 11 report to the Mayor and the Council."
 12 And continuing on, Section 8-13.2, Liquor
 13 Control Commission, Subsection 4, we've added, "Annually
 14 review and evaluate the performance of the Director of
 15 Liquor Control and submit a report to the Mayor and the
 16 Council."
 17 And then, in Section 8-13.4, Director of the
 18 Department of Liquor Control, second sentence, we've
 19 added, "The director may be removed by the Liquor
 20 Control Commission only after being informed in writing
 21 of the charges which are resulting in the director's
 22 dismissal, and after being given a hearing before the
 23 commission.
 24 Okay. And that -- that would suffice in
 25 bringing these departments consistency. So can I have a

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1 motion to approve the amended language?
 2 COMMISSIONER CRIVELLO: I so move.
 3 COMMISSIONER DELEON: Second.
 4 COMMISSIONER DE REGO: Second.
 5 CHAIR STONE: Thank you, Stacy. A motion has
 6 been put forward by Stacy, seconded by Dave.
 7 COMMISSIONER DE REGO: Okay. I just have a
 8 question.
 9 CHAIR STONE: Go ahead.
 10 COMMISSIONER DE REGO: So the Civil Service
 11 Commission, there's no -- I'm sorry. I am thinking a
 12 little slow today, so -- there's no force here in terms
 13 of -- is the Civil Service Commission Director different
 14 in terms of their removal? Because I don't see anything
 15 here in terms of consistency. Part of the consistency
 16 argument was that everyone should be able to --
 17 CHAIR STONE: I have -- I have an answer for
 18 you.
 19 COMMISSIONER DE REGO: Okay.
 20 CHAIR STONE: In the present Charter, Section
 21 8-9.2, under Director of Personnel Services, second
 22 sentence, the director may be removed by the Civil
 23 Service Commission only after being informed in writing
 24 of the charges that --
 25 COMMISSIONER DE REGO: So it's already in

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1 there?
 2 CHAIR STONE: Yes.
 3 COMMISSIONER DE REGO: Okay. I'm sorry.
 4 CHAIR STONE: No problem.
 5 COMMISSIONER DE REGO: I was thinking that --
 6 yeah, yeah, I was --
 7 CHAIR STONE: Each of them has -- should have
 8 the same --
 9 COMMISSIONER DE REGO: This is the one I
 10 proposed, so I should have know, but my brain isn't
 11 functioning.
 12 CHAIR STONE: No, it's good. Good to get
 13 clarification.
 14 COMMISSIONER DE REGO: No. I agree.
 15 CHAIR STONE: All right. There's a motion on
 16 the floor that --
 17 COMMISSIONER DE REGO: Call for the question.
 18 CHAIR STONE: -- has been seconded. All in
 19 favor of approving the amended language for Proposal
 20 Number 10, raise your hand and say "aye."
 21 (Ayes.)
 22 CHAIR STONE: Very good. Motion passes
 23 unanimously. Okay. Very good.
 24 Moving forward. We are on to Proposal Number
 25 11, our Preamble that we had discussed earlier. Do we

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1 have that printed up? Lisa is going to hand it out.
 2 MS. KAHUHU: Sherry, there was two emails you
 3 sent me.
 4 MS. BRODER: Yeah.
 5 MS. KAHUHU: One was later than the other, but
 6 they both were --
 7 MS. BRODER: Actually, I just clicked twice.
 8 If I didn't say something different, it was the same
 9 thing.
 10 COMMISSIONER HASHIMOTO: Chair.
 11 CHAIR STONE: Yes, Cliff.
 12 COMMISSIONER HASHIMOTO: Can we take a real
 13 short break?
 14 CHAIR STONE: I think we'll call for lunch if
 15 we're going to do that. Maybe we should just -- why
 16 don't we take care of Proposal Number 11? This won't --
 17 shouldn't take too long. This is the language that we
 18 had approved earlier, and we're just reviewing the
 19 amendment. And then -- you know what, I don't want to
 20 be a -- I don't want to torture you guys. All right.
 21 We're going to --
 22 COMMISSIONER SUGIMURA: How much more do we
 23 have to go?
 24 CHAIR STONE: Not much more, guys. Not much
 25 more here. Okay, let's take a 10-minute recess -- yes,

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1 I know -- and we'll be back here at 1:00. Thank you.
 2 You're good to go.
 3 (Recess, 12:50 p.m. to 1:04 p.m.)
 4 CHAIR STONE: I would like to call this
 5 meeting back to order as of 1:05 p.m.
 6 And, Commissioners, just one small change Ed
 7 pointed out. We're going back to Proposal Number 1.
 8 Woo-hoo. And on that amended language that we just
 9 approved, primarily effective January 2nd, that should
 10 be 2015, not 2014. Okay. So without -- without
 11 objection, I am going to amend that. Very good,
 12 unanimous.
 13 And, Ed, as well as removing of some language
 14 that Ed had proposed.
 15 MR. KUSHI: Yes. After discussing it with the
 16 staff of Council Services and our Analyst, the last
 17 phrase of that Section 3-2(5), where it says, "For more
 18 than 12 consecutive years, whichever time is longer," we
 19 would recommend that phrase be struck.
 20 CHAIR STONE: Why, Ed, just so we know?
 21 MR. KUSHI: The reason why we put it in
 22 initially was because, if this thing passes, the
 23 staggering will take effect. And some members would be
 24 entitled to three consecutive terms, some would have 10
 25 years, some would have 12, possibly. Then the phrase

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1 "12 consecutive years, whichever time is longer" may
 2 cause some confusion in interpretation.
 3 I believe, as long as we include the language,
 4 where it says three consecutive terms, whether such
 5 terms are two-year term -- two-year or four-year terms
 6 of office, period, clarifies that.
 7 CHAIR STONE: That's clear to me.
 8 MR. KUSHI: Yes. But, again, with the
 9 language about "12 consecutive years, whichever is
 10 longer," it may tend to cause confusion.
 11 CHAIR STONE: Very good. All right.
 12 Commissioners, any discussion? Would somebody put a
 13 motion to amend that, please?
 14 COMMISSIONER DELEON: Mr. Chair?
 15 CHAIR STONE: Go ahead, Dave.
 16 COMMISSIONER DELEON: What about for a maximum
 17 12?
 18 MR. KUSHI: Mr. Chair, I can't see --
 19 MS. BRODER: I don't think it adds anything.
 20 I mean, I think it's, actually, completely clear the way
 21 it is.
 22 COMMISSIONER DELEON: Okay.
 23 CHAIR STONE: Any motion to amend that?
 24 COMMISSIONER DE REGO: So moved.
 25 CHAIR STONE: Frank moves. Dave, will you --

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1 COMMISSIONER DELEON: Second.
 2 CHAIR STONE: Seconded by Dave. Thank you.
 3 Without discussion, take that to vote. All in
 4 favor of amending Proposal 1 by removing that last -- or
 5 more than 12 consecutive years, whichever time is
 6 longer, raise your hand and say "aye."
 7 (Ayes.)
 8 CHAIR STONE: Cliff, Commissioner Baxa? Very
 9 good. Unanimous. Thank you.
 10 Okay. Moving on. Back to Proposal Number 11,
 11 which is our Preamble. And we just got that from the
 12 approved -- yes, hot-off-the-press approved version. I
 13 just want to point out that "rightness" should be
 14 "righteousness." Okay? Okay.
 15 COMMISSIONER DE REGO: Life of the land is
 16 perpetuated --
 17 CHAIR STONE: Okeydokey. As I heard in a
 18 previous discussion that some people thought maybe
 19 moving that additional amended language to the
 20 beginning. So let's start that out there as a
 21 discussion topic. Go ahead, Cliff.
 22 COMMISSIONER HASHIMOTO: I would like to
 23 include in here somewhere -- I know a lot of people are
 24 going to be opposed to what I am going to say.
 25 COMMISSIONER WIGER: Say it, anyway.

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1 COMMISSIONER HASHIMOTO: But I am going to say
 2 it, anyway. I'd like to include in here words such as
 3 "Native Hawaiian rights" because that is always left out
 4 in anything that we write about native culture.
 5 CHAIR STONE: Okay.
 6 COMMISSIONER HASHIMOTO: It's important I
 7 think to -- otherwise, this is useless.
 8 CHAIR STONE: Thank you. Thank you, Cliff.
 9 Yuki.
 10 COMMISSIONER SUGIMURA: So I thought that was
 11 what we brought up and we had voted to kind of stay away
 12 from that political statement.
 13 COMMISSIONER HASHIMOTO: It's not political;
 14 it's a fact.
 15 COMMISSIONER SUGIMURA: So I just wanted to
 16 make that comment.
 17 CHAIR STONE: Thank you.
 18 Further discussion? Go ahead, Frank.
 19 COMMISSIONER DE REGO: In our State
 20 Constitution, Native Hawaiian rights, especially
 21 gathering rights and other rights, are actually
 22 enshrined in the State Constitution. So it would not --
 23 to add the word "rights" would not be adding anything
 24 which is not already pronounced in legal documents to
 25 the State.

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1 COMMISSIONER HASHIMOTO: Since you said that
 2 --
 3 CHAIR STONE: One second. Please, raise your
 4 hand.
 5 COMMISSIONER HASHIMOTO: I'm sorry.
 6 COMMISSIONER DE REGO: So I would have no
 7 problem with adding mindful of -- I'm not quite sure
 8 now, but -- where that would -- but, you know, just to
 9 comment on Cliff's statement, I think Native Hawaiian
 10 rights have already been enshrined in the State
 11 Constitution. So the recognition there of --
 12 CHAIR STONE: Okay. Good.
 13 COMMISSIONER DE REGO: I have no suggestion
 14 for language at this point.
 15 COMMISSIONER HASHIMOTO: Can we just refer
 16 back --
 17 CHAIR STONE: Cliff.
 18 COMMISSIONER HASHIMOTO: -- from the
 19 Constitution in some way?
 20 CHAIR STONE: That's a good question. So,
 21 Sherry, is that possible, to refer back to maybe
 22 something in the Constitution?
 23 MS. BRODER: Well, in the original language
 24 that you were looking at this morning, that's in your
 25 packet -- was it in your packet? Or was it separate,

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1 Lisa?
 2 CHAIR STONE: It was separate.
 3 MS. BRODER: Separate, okay. The original
 4 language did refer, you know, to the Apology Resolution
 5 and other state and federal laws. So --
 6 COMMISSIONER HASHIMOTO: Yes, I can see that.
 7 MS. BRODER: I mean, that was one -- that was
 8 one -- that was one proposal. And then I didn't know if
 9 people would like that or go for it or what, so I made
 10 two different things so you could --
 11 COMMISSIONER HASHIMOTO: I was more in favor
 12 of that.
 13 CHAIR STONE: Okay. Thank you. Okay.
 14 Further discussion? Go ahead, Susan.
 15 COMMISSIONER MOIKEHA: Are we talking about
 16 how we want this set, like -- I mean, I like the idea
 17 that Flo brought up, having this underlying statement as
 18 a beginning. And my reasoning for that is what I see
 19 here is the spirit of the law and the letter of the law.
 20 And even within the Hawaiian culture, and other
 21 cultures, everything is created spiritually first. And
 22 I just see this as a much broader mindset of setting,
 23 but with the spirit. And it doesn't have to be
 24 religiously taken, either, but it's what the spirit
 25 says. And then you get into what the letter is and the

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1 purpose of best possible form of County government. So
 2 I would propose that we switch this.
 3 CHAIR STONE: Do you want to put a motion
 4 forward?
 5 COMMISSIONER MOIKEHA: I move to incorporate
 6 the underlying language proposal as a beginning of the
 7 Preamble with the original language to follow, as
 8 amended.
 9 CHAIR STONE: Thank you. Do I have a second?
 10 COMMISSIONER WIGER: Second.
 11 COMMISSIONER DELEON: Second.
 12 CHAIR STONE: Seconded by -- I'll give that to
 13 Flo. Okay. So open for discussion.
 14 Cliff, you mentioned you wanted to see a
 15 change of language, amendment of language, including
 16 Native Hawaiian rights. I ask where would that language
 17 fit in and how?
 18 COMMISSIONER HASHIMOTO: Can I ask the --
 19 CHAIR STONE: Sherry, do you have any idea?
 20 COMMISSIONER HASHIMOTO: If she can include
 21 that last line there of the first --
 22 MS. BRODER: I guess you could say mindful of
 23 our Hawaiian history, heritage, culture and rights or
 24 traditions or -- mindful of our Hawaiian history,
 25 heritage, culture --

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1 CHAIR STONE: Rights.
 2 MS. BRODER: -- and traditional rights.
 3 COMMISSIONER HASHIMOTO: (Inaudible.)
 4 CHAIR STONE: Sorry. Go ahead, Cliff.
 5 COMMISSIONER HASHIMOTO: If we say traditional
 6 rights, then we're referring back to the culture again,
 7 I think. So if you left tradition and just say "Native
 8 Hawaiian rights" --
 9 MS. BRODER: And rights. Hawaiian -- mindful
 10 of our Hawaiian history, heritage, culture and rights.
 11 COMMISSIONER HASHIMOTO: Hawaiian rights.
 12 Native Hawaiian rights.
 13 COMMISSIONER DELEON: Chair?
 14 CHAIR STONE: Yes, go ahead, Dave.
 15 COMMISSIONER DELEON: Clifford, can you give
 16 us the definition of rights you are referring to?
 17 COMMISSIONER HASHIMOTO: Yes. There's a
 18 reason I am using that, and I am trying to incorporate
 19 that, because I want people to recognize that Native
 20 Hawaiians do have rights that are separate from other
 21 people here in Hawaii.
 22 COMMISSIONER DELEON: So you are setting up a
 23 separation.
 24 COMMISSIONER HASHIMOTO: I am not setting it
 25 up. It's part of the State Constitution now.

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1 CHAIR STONE: Thank you. Thank you.
 2 Go ahead, Susan.
 3 COMMISSIONER MOIKEHA: And this is why I
 4 brought up -- because I think where you're coming from,
 5 and I understood it more clearly now, is from the
 6 resolution, which is the reconciliation. And that's
 7 what that resolution was really all about, is reconcile
 8 -- reconciling to the Native Hawaiian people. And that
 9 reconciliation includes right to their inherent
 10 sovereignty, rights to their lands and rights to their
 11 nation. So that's really what you're directing this to.
 12 And you're right, it's already established
 13 there. Whether it's in the apology or in the enactment,
 14 there's already case federal law that sets that up. So
 15 you're asking us to solidify it more within this
 16 statement. And I understand that.
 17 And my thinking is -- I totally support it,
 18 but I am thinking on the bigger picture, maybe where
 19 Dave's coming from, is how supportive will it be when it
 20 comes to a vote by the voters and would it not pass
 21 because of that. And, you know, that's everybody's
 22 personal opinion to decide how they want to support this
 23 particular Preamble, you know, amendment, but I like
 24 what it says now. I think it covers a lot. It may not
 25 be everything, and yet there are other venues by which

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1 that's brought forth. And I just don't know if this is
 2 going to cause this huge issue that Dave is bringing to
 3 the -- to the foreground here. So I don't know.
 4 CHAIR STONE: Okay. Thank you.
 5 Dave.
 6 COMMISSIONER DELEON: We're talking about a
 7 Preamble here to a structure of government that affects
 8 everybody, and not one particular group of people over
 9 another group of people. So why are we separating out
 10 groups of people?
 11 When we start talking about rights, we're
 12 talking about a group of people's rights in this
 13 particular case. We're talking about Native Hawaiian
 14 rights. They are codified in law, (inaudible) in the
 15 State Constitution, but we're talking about structure of
 16 County government.
 17 After you follow this, after you read the
 18 Preamble, do you find any statement about one group over
 19 another group or reference to different ethnicities or
 20 anything else. This is strictly about administration of
 21 a government.
 22 So why would we start off with language that
 23 is inflammatory? And I can see people walking into the
 24 County Council and says, "The Charter says I got rights,
 25 you better give them to me." Its self-defined. And

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1 causing all kinds of pilikea over, you know, a choice of
 2 words.
 3 I don't agree with the language proposed.
 4 This is -- the language here -- I like the original
 5 language we were talking about this morning. The
 6 language here, for me, is a stretch. I don't think it's
 7 a stretch far enough. I don't see where we're going to
 8 get into talking about one person's rights over another
 9 in the Preamble of a County Charter.
 10 CHAIR STONE: Thank you, Dave.
 11 COMMISSIONER BAXA: Mr. Chair?
 12 CHAIR STONE: Sure, go ahead, Commissioner
 13 Baxa.
 14 COMMISSIONER BAXA: Yeah. Mr. Chair, I think
 15 the language that you had approved so far, I think it is
 16 broad enough to take care of that concern. I realize
 17 that all of us do recognize Hawaiian ancestral tradition
 18 rights. Those rights, I think, are spelled out in
 19 Hawaii Revised Statutes already. There are some rights
 20 that are being recognized. We are setting a broad
 21 statement here. I think this is sufficient.
 22 CHAIR STONE: Thank you, Commissioner Baxa.
 23 Further discussion?
 24 (No Response.)
 25 CHAIR STONE: No. Okay. Take this to vote.

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1 The motion is to amend the Preamble -- or accept
 2 Proposal Number 11, with the amended language to the
 3 Preamble which will -- this amended language will begin
 4 the Preamble. And it will state, "We, the people of the
 5 County of Maui, mindful of our Hawaiian history,
 6 heritage and culture and the uniqueness as a four-island
 7 county, dedicate our efforts to fulfill the philosophy
 8 decreed by the Hawaii State motto, 'Ua mau ke ea o ka
 9 aina i ka pono,' ('The life of the land is perpetuated
 10 in righteousness.')

11 All in favor of accepting Proposal Number 11
 12 as amended, raise your hand and say "aye."
 13 (Ayes.)
 14 CHAIR STONE: Let me count. One, two, three,
 15 four, five, six, seven.
 16 All opposed, raise your hand and say "nay."
 17 One opposed.
 18 Okay. Proposal Number 11 moves -- is
 19 accepted. Thank you.
 20 Moving on to Proposal Number 12, we have not
 21 received --
 22 COMMISSIONER DE REGO: Point of order,
 23 Mr. Chair.
 24 CHAIR STONE: Yes. Go ahead.
 25 COMMISSIONER DE REGO: Just as a matter of

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1 style, this has nothing to do with the substance. The
 2 uniqueness as a four-island county strikes me as a
 3 awkward phrase. Okay. So if you can just put Hawaiian
 4 history, heritage, culture and uniqueness as a
 5 four-island county, or something like that. It's more
 6 of a stylistic thing.
 7 And then when you come to the second
 8 paragraph, it's sort of a consequent. So, you know,
 9 when you come to the end and then you start, you know,
 10 to have "We, the people of Maui County" repeated twice
 11 seems kind of awkward. So, you know, so if we could put
 12 something like thus to secure the benefits or as a
 13 consequence to secure, you know, something like that,
 14 you know, for the second paragraph.
 15 CHAIR STONE: Okay. Very good. Let's go
 16 ahead and formalize that language now, though, please.
 17 COMMISSIONER DE REGO: Okay.
 18 CHAIR STONE: What you're proposing is to --
 19 COMMISSIONER DE REGO: I am proposing the
 20 Legal Analyst clean up the --
 21 CHAIR STONE: Very good.
 22 COMMISSIONER DE REGO: -- grammar and the
 23 language.
 24 MS. BRODER: Why don't we say "our
 25 uniqueness?" Because it's mindful of our Hawaiian

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1 history. I was just trying to break it up like it's two
 2 thoughts; one is a Hawaiian and the other one is just
 3 Maui is four islands. So if we did "our uniqueness" --
 4 and then the way they did in the State Constitution is
 5 they go, "We, the people of Hawaii," then the next one
 6 just says "we," taking out "the people of the County of
 7 Maui." So why don't we just do that, just say "we?" It
 8 says we -- well, I would have to change it. We -- the
 9 State Constitution they just say the people of Hawaii
 10 once, but then it makes it a little bit awkward the
 11 way --
 12 COMMISSIONER DELEON: Chair?
 13 MS. BRODER: -- the other one is written.
 14 CHAIR STONE: Go ahead, Dave.
 15 COMMISSIONER DELEON: Maybe instead of "we,
 16 the people of Maui County," and for the next sentence,
 17 one following, "in order to secure."
 18 COMMISSIONER DE REGO: Yes, exactly.
 19 COMMISSIONER DELEON: Right in front of that
 20 do put "we."
 21 COMMISSIONER DE REGO: In order to secure. It
 22 just becomes a follow-on. It becomes a consequence of
 23 the first paragraph.
 24 CHAIR STONE: Sorry, Dave. I missed that. So
 25 we eliminate "we, the people of the County of Maui" and

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<p>1 put "in order to secure." 2 COMMISSIONER DELEON: Right. 3 CHAIR STONE: Okay. 4 COMMISSIONER DELEON: And then following down 5 to the comma. 6 CHAIR STONE: Okay. 7 COMMISSIONER DELEON: -- put in the word "we." 8 CHAIR STONE: Okay. Okay. Let's vote. Yeah, 9 go ahead, Flo. 10 COMMISSIONER WIGER: Could we -- could we 11 ask Sherry to short of frame it the way it's going to -- 12 MS. BRODER: He's got it. 13 COMMISSIONER WIGER: -- sound? 14 CHAIR STONE: We've got it. 15 COMMISSIONER WIGER: I know, but I would like 16 to have it read aloud. 17 CHAIR STONE: One second. I thought we would 18 just put a motion forward and have it read aloud and 19 accepted. 20 COMMISSIONER WIGER: Well, no. I just want -- 21 I just want it in terms of I want to hear it. 22 MS. BRODER: "We, the people of the County of 23 Maui, mindful of our Hawaiian history" -- 24 COMMISSIONER WIGER: That's fine. 25 MS. BRODER: -- "heritage and culture and the"</p>	<p>1 Proposal 11, raise your hand and say "aye." 2 (Ayes.) 3 CHAIR STONE: Unanimous. Very good. Thank 4 you, guys. 5 All right. Proposal Number 12, we did not 6 receive housekeeping changes. So shall we -- without 7 any proposed housekeeping changes, I think that we may 8 need to remove this from going to the ballot. Is there 9 any motion to remove Proposal Number 12? Thank you. 10 COMMISSIONER MOIKEHA: I move that we remove 11 Proposal Number 12, housekeeping changes. 12 CHAIR STONE: Thank you. Do I have a second? 13 COMMISSIONER DELEON: No. 14 CHAIR STONE: I'm sorry. Do I have a second? 15 COMMISSIONER SUGIMURA: Second. 16 CHAIR STONE: Second. Yuki, thank you. 17 Go ahead, Dave. 18 COMMISSIONER DELEON: Well, we know we have 19 stuff that's broken. We've identified the stuff that 20 was broken. To me, I am kind of uncomfortable with the 21 thought that, oh, we got too many things in here, it's 22 too confusing. We know we got stuff broken. It's 23 really our Charter -- it's our -- it's our 24 responsibility to fix them. I've been arguing that, I 25 mean -- I almost made a motion -- I was almost going to</p>
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<p>1 -- 2 COMMISSIONER WIGER: You don't have to read 3 the whole thing. 4 MS. BRODER: -- "uniqueness as a four" -- 5 COMMISSIONER WIGER: No. What I was looking 6 for was the beginning of it and then you get to the end 7 of that, the life of the land is perpetuated in 8 righteousness, and then the next one is -- 9 CHAIR STONE: The next paragraph. 10 COMMISSIONER WIGER: Next paragraph. 11 CHAIR STONE: So can you please read the next 12 paragraph? 13 MS. BRODER: "In order to secure the benefits 14 of the best possible form of county government and to 15 exercise the powers and assume the responsibilities of 16 county government to the fullest extent possible, we do 17 hereby adopt this Charter of the County of Maui, State 18 of Hawaii." 19 COMMISSIONER WIGER: Okay. Thank you. 20 CHAIR STONE: I have a motion to accept the 21 amendment? 22 COMMISSIONER CRIVELLO: So move. 23 CHAIR STONE: Thank you, Stacy. Yuki, you 24 want to second that? Seconded by Yuki. Thank you. 25 All in favor of accepting the amendment to</p>	<p>1 make a motion to go back to that boards and commissions 2 thing I was pointing out earlier about -- about 3 requiring everybody to identify their party as a 4 housekeeping item, because neither the County Council 5 nor this Commission felt it relevant enough to put on 6 the ballot as a separate item. I thought, well, if it's 7 not relevant to put on the ballot, then it's 8 housekeeping. 9 But, I mean, you know, spelling errors, all 10 this other stuff. Wayne's done -- I -- I -- generally, 11 I'd be willing to accept whatever Wayne came up with as 12 far as the miscellaneous because he is going after 13 miscellaneous errors and -- and broken bits and pieces. 14 And if it's -- you know, if there's a word off or 15 something later on, we can catch it. We still have time 16 after the Council is done. We'll get that. 17 CHAIR STONE: That's a good point. Let me 18 just ask one question of Corp Counsel. 19 Ed, when it comes to these housekeeping 20 items -- and this is my fear, Dave -- is that do we have 21 -- is it appropriate or are we allowed as the 22 Commissioners to -- to modify a proposal -- like, for 23 example, if we just put -- can we just put forward a 24 Proposal Number 12 that says housekeeping changes and 25 not include the full list of housekeeping changes, and</p>

<p style="text-align: right;">Page 137</p> <p>1 then, after it comes back from Council, have that 2 resolved? Or does that -- that list need to be fully 3 identified as it goes to Council? 4 MR. KUSHI: Well, Mr. Chair, the only answer I 5 can give you is that the previous Charter Commission 6 report, 2001 and 2002 Final Report, did have a section 7 on housekeeping. And it was like about four or five 8 pages. And it identified every specific change that 9 needed to be cleaned up. So you need to -- you need to 10 be specific. 11 CHAIR STONE: How did they miss those typos? 12 MR. KUSHI: Well, somebody went through the 13 whole Charter. And in response to -- 14 COMMISSIONER DELEON: Still finding them. 15 CHAIR STONE: Still there. 16 MR. KUSHI: You know, it's mainly 17 typographical items. And Commission Hedani did point 18 out one word, personally, versus personal property. 19 But, again, the departments have interpreted it is 20 personal property. 21 CHAIR STONE: Okay. This is what we could do. 22 We could, for the -- for this period, since we're coming 23 back to meet, we could leave Proposal Number 12 on and 24 finalize that Proposal Number 12 at our next meeting, 25 just before April 2nd, and see what Wayne has. I mean,</p>	<p style="text-align: right;">Page 139</p> <p>1 great importance. I mean, it can always be done by the 2 Council two years from now, three. 3 CHAIR STONE: Go ahead, Stacy. 4 COMMISSIONER CRIVELLO: I'm sorry, Mr. Chair. 5 I tend to agree with Dave, it's just a matter of -- it's 6 a document that comes from us as Charter Commissioners, 7 that if we want to put something in as housekeeping, 8 let's be specific and let's do it. If we don't want it, 9 then say so. I would like to see us sort of clean up, 10 if there's anything we need to clean up. 11 CHAIR STONE: Okay. Thank you. 12 Go ahead, Susan. 13 COMMISSIONER MOIKEHA: I don't have a problem 14 removing my motion. I just don't see anything before me 15 to vote on. And so that was my reason for taking it 16 off. So if this is going to continue to your next 17 meeting, then I'll remove my motion. 18 CHAIR STONE: Let me -- before I -- let me 19 talk to Ed and Sherry on this. What are the dangers of 20 taking this to the very last meeting and not having it 21 completely resolved before we approve the resolution -- 22 or the report? 23 MR. KUSHI: What would be the consequence? 24 CHAIR STONE: Well, obviously, do we -- are we 25 not seeing -- if I were to -- okay. If the Chair were</p>
<p style="text-align: right;">Page 138</p> <p>1 I was really hoping to see what Wayne had. I thought 2 that we would go through. 3 The issue is, today, we're looking at our -- 4 our report. And in our report, we state we have 11 5 proposals where, in actuality, we have 12. So we -- you 6 know, I mean, it's not a major issue, but it's an issue. 7 So go ahead, Susan. 8 COMMISSIONER MOIKEHA: So the answer to your 9 question is, do we have to have Number 12 spelled out 10 and listed for the Council? That was yes? 11 MS. BRODER: I would say so, because, you 12 know, what might be one person's housekeeping might not 13 be another's. So I don't think that that would -- I 14 think that would be very questionable. So I think you 15 should have it spelled out. I mean, of course, the 16 other alternative is the Council itself can propose 17 amendments. And, you know, if what you're talking about 18 is housekeeping, anyways. 19 And then take, for instance, the one that Ed 20 was just talking about, where it should say personal 21 property instead of whatever it says right now. But 22 it's being interpreted properly. I guess -- I mean, the 23 Council could have already proposed that as a Charter 24 Amendment, so maybe people didn't think it was a -- 25 these housekeeping things aren't, you know, of that</p>	<p style="text-align: right;">Page 140</p> <p>1 to move this -- if we were to keep this proposal, the 2 Commission kept the Proposal Number 12, and we worked on 3 it at the next meeting, which is the last meeting before 4 -- where the report must be finalized. 5 MR. KUSHI: Yes. 6 CHAIR STONE: Are we going to run into issue 7 working on the housekeeping issues at that meeting and 8 then -- and then approving it to move forward and 9 approving the report all at one time? 10 MR. KUSHI: That's a logistical question I 11 hope Lisa can answer. 12 MS. KAHUHU: Chair, it just -- it's possible, 13 I believe, but it's going to come down to the crunch 14 where it will be going back and forth to the office, 15 printing, re-reviewing, stuff like that. 16 CHAIR STONE: Okay. So it's not -- we're not 17 facing any Sunshine Law issues, Ed? 18 MR. KUSHI: You need to post it. 19 CHAIR STONE: So then we are -- we would be 20 facing Sunshine Law issues? 21 COMMISSIONER DE REGO: Yes. 22 CHAIR STONE: So this next meeting is very -- 23 is pretty soon. Go ahead. 24 MS. KAHUHU: I'm sorry, Chair. I thought you 25 were talking about how it would work at the next</p>

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1 meeting.

2 CHAIR STONE: Then my second question is

3 Sunshine Law issues. You know, we have to be cautious

4 about that as well, so -- so, Ed, that's kind of what I

5 want to make sure, we don't make a big mistake here.

6 MR. KUSHI: Right. If you are going to take

7 up the housekeeping measure at your next meeting, you

8 need to post the agenda and list what measures need to

9 be --

10 COMMISSIONER SUGIMURA: We don't have enough

11 time. Don't have enough time.

12 MR. KUSHI: For example, Mr. Chair, the last

13 Commission Report, under housekeeping, they had seven

14 proposals, very specific.

15 CHAIR STONE: Yeah. Yeah, I was expecting at

16 this meeting to have those -- that list available. And

17 if we had that list available, then I feel that we would

18 have the time to do it. But without the list even

19 presented, I mean -- so, Ed, what I am hearing is if we

20 -- and just lay it out for us. If we don't have that

21 list available to the public seven days prior to the

22 next meeting, we cannot act?

23 MR. KUSHI: You'll be subject to Sunshine Law

24 violation.

25 CHAIR STONE: We're not going to do that. So

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1 now --

2 COMMISSIONER DE REGO: I second the motion.

3 CHAIR STONE: Yeah, the motion's been

4 seconded. Very good.

5 Just one last question. What is the legality

6 of us sending in, individually, to Lisa to -- to make a

7 housekeeping list for the agenda? Is that possible?

8 MR. KUSHI: If you -- if the time is -- you

9 can make it in time. When is the next meeting?

10 COMMISSIONER DE REGO: 28th.

11 CHAIR STONE: 28th is our next meeting. One

12 second.

13 MS. KAHUHU: I have to file on Wednesday.

14 CHAIR STONE: That's Wednesday, that's two

15 days from now.

16 COMMISSIONER WIGER: Mr. Chair?

17 CHAIR STONE: Yes, go ahead, Flo.

18 COMMISSIONER WIGER: Do we know if Wayne has a

19 list? I know he indicated that he was either going to

20 come up with one -- I guess I am wondering if we know he

21 has one. I mean, if he has one, then it would be a

22 matter of him getting that to you, it goes out, and then

23 it's there, Sunshine Law is covered and all of that.

24 But do we know if Wayne has a list?

25 CHAIR STONE: I don't know personally. Lisa,

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1 do you know?

2 MS. KAHUHU: No, Chair, I don't.

3 CHAIR STONE: Okay. Well, that answers the

4 question. I mean, we have -- so to make it right, we

5 have two days to get a list into Lisa, which she would

6 have to include.

7 MS. KAHUHU: Chair, can I ask that the list be

8 sent to Sherry? Because sometimes it's -- you know, it

9 would be difficult for me to determine sometimes exactly

10 what a commissioner's thoughts are.

11 CHAIR STONE: Okay.

12 MS. KAHUHU: And I don't feel comfortable

13 making that decision.

14 CHAIR STONE: Sherry, do you want to chime in

15 on this, please?

16 MS. BRODER: Well, I guess, Chair, already you

17 asked at the last meeting if anyone had any housekeeping

18 to submit them for this meeting.

19 COMMISSIONER DE REGO: No.

20 CHAIR STONE: That was done.

21 MS. BRODER: And nobody submitted anything.

22 And Ed and I divided up the work for this meeting. And

23 I gave Ed housekeeping. And he -- and it wasn't fair

24 because he came out ahead because he didn't have to do

25 anything. But I don't know.

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1 COMMISSIONER HASHIMOTO: So he owes us one.

2 MS. BRODER: I am just a little concerned

3 because it's such an absolutely incredible short

4 timeframe to do things. And then, you know, to

5 coordinate with Lisa and Ed. And, you know, the two --

6 the three of us worked all weekend this last weekend to

7 make sure we got everything done today. So it does take

8 time and effort to, you know, put everything together

9 and make sure it's right. And even then, you know, so I

10 am -- I am -- I don't know.

11 CHAIR STONE: Okay. Thank you very much.

12 MS. BRODER: Nobody has mentioned any burning

13 issues.

14 CHAIR STONE: Right.

15 COMMISSIONER DE REGO: Mr. Chair, there's a

16 motion on the floor and it's been seconded.

17 CHAIR STONE: Yeah, I recognize that.

18 Any further discussion on the motion to remove

19 Proposal Number 12?

20 (No Response.)

21 CHAIR STONE: No. All in favor of removing

22 Proposal Number 1, please raise your hand and say "aye."

23 (Ayes.)

24 CHAIR STONE: One, two, three, four, five,

25 six.

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1 All opposed, please raise your hand and say
 2 "nay." Three. Okay.
 3 So Proposal Number 12 is not going to the
 4 voters.
 5 Okay. That ends our discussion on our
 6 proposals. And we now have a complete and final amended
 7 list of proposals, 11 of them. So I would like to take
 8 this time to review our Draft Final Report that's going
 9 to go to Council. And it is this report here.
 10 Also, I just want to put forward, if -- any --
 11 we have the ability -- we have the ability to do pros
 12 and cons, obviously, for these proposals. And the pros
 13 and cons aren't necessary to go to Council.
 14 COMMISSIONER CRIVELLO: Are we supposed --
 15 CHAIR STONE: No, they're not necessary to go
 16 to Council.
 17 COMMISSIONER CRIVELLO: Mr. Chair, is this
 18 something that we're going to put on the ballot?
 19 CHAIR STONE: Yes.
 20 COMMISSIONER CRIVELLO: Is this something
 21 we're going to put on the ballot?
 22 CHAIR STONE: The pros and cons, it's up to
 23 us. We're not required to have pros and cons. I made a
 24 list just -- I went through our proposals and made a
 25 sample list of pros and cons, you know, my opinion. So

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1 everybody -- you know, that's a discussion that we
 2 should get into.
 3 Let me just make sure I am right about that.
 4 Do the pros and cons have to go to Council? Anybody?
 5 MS. BRODER: No, pros and cons don't have to.
 6 MR. KUSHI: No.
 7 CHAIR STONE: Okay. Thank you.
 8 MS. BRODER: The lawyers agree, it's not
 9 necessary.
 10 CHAIR STONE: So that is something we should
 11 be working on.
 12 The reason that I -- and I do recognize that
 13 people are getting hungry -- basically, looking at our
 14 -- we will have -- again, we'll have one final review of
 15 this at this next meeting, but all I -- all we want to
 16 ask is, on this Final Report -- we've already gone
 17 through all of the proposals, so the Final Report, first
 18 one, two, three, four, five pages, and one paragraph on
 19 Page 6. The question is, are we good with the Final
 20 Report as printed and amended today on the proposals?
 21 Yes. Very good. Okay. Yeah, no, that's fantastic.
 22 That's very good. So we could -- what we're going to do
 23 is we can get the Final Report completely revised and
 24 amended as today. So we could actually approve the
 25 Final Report today without pros and cons. So why don't

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1 we have that printed up? Why don't we go to lunch? And
 2 then when we come back, we can review it and finalize
 3 the Final Report. All right?
 4 COMMISSIONER SUGIMURA: Now we're going to
 5 lunch?
 6 CHAIR STONE: Yes. We're going to have a
 7 lunch.
 8 Yes, go ahead. Go ahead.
 9 COMMISSIONER MOIKEHA: So we're coming back?
 10 CHAIR STONE: I think we might as well have it
 11 completed. I don't think -- it may resolve the issue of
 12 a next meeting. I don't think we'll need a next meeting
 13 if we can approve this Final Report today. So we have
 14 all the amended language being completed. And I believe
 15 that why not finish it today and not have to bring
 16 everybody from the outer islands and save us some money?
 17 COMMISSIONER SUGIMURA: So are you saying we
 18 just have to approve these six pages?
 19 CHAIR STONE: Yes. But I am going to get us a
 20 -- I want them in hand. They're going to print up all
 21 the amendments done, so we'll have a real draft of the
 22 Final Report that we're going to approve. Okay?
 23 COMMISSIONER CRIVELLO: I have a question.
 24 CHAIR STONE: Yes, go ahead.
 25 COMMISSIONER CRIVELLO: So after we get this

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1 and we approve it and we don't have a meeting, do we
 2 still have to come in to see how we're going to do our
 3 publications? Is that something we decide as a
 4 Commission?
 5 CHAIR STONE: Yes. Yes, absolutely. We will
 6 decide that.
 7 Dave, you had issue?
 8 COMMISSIONER DELEON: Well, I mean, we're not
 9 going to have any time really to study this language, so
 10 -- I mean, I know we're in a rush, we're trying to get
 11 it out today. But, seriously, I mean, we're only
 12 looking -- I mean, the front pages are pretty
 13 ministerial. It's just, basically, saying what we've
 14 done.
 15 CHAIR STONE: Right.
 16 COMMISSIONER DELEON: Then the language we
 17 just passed, the concern I have is what happens if
 18 something happens, we're not in agreement on something
 19 and we're jamming it out at lunchtime, and then we come
 20 back and find out, well, geez, that didn't work. We've
 21 had this backfire before. And we had concepts on the
 22 floor. I don't imagine that happening in this case
 23 because it's pretty well chewed on at this point. I
 24 think we're getting down to the fine nuances of words.
 25 But, I don't know.

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1 I have a question, though. Once the thing
 2 comes back from Council, it's locked, you can't touch it
 3 after that, it's final final? Or is it -- after --
 4 unless the Council messes with it and wants us to change
 5 it -- I thought the purpose of going to Council was for
 6 their review and consideration, and then we could fix
 7 stuff at that point. But is that only if Council says
 8 so, or is it, generally, can we go back and fix
 9 something after the fact?
 10 CHAIR STONE: Good question. Guys, input?
 11 Ed.
 12 MR. KUSHI: I'll take a crack. It goes to the
 13 Council, they have so many days to review and comment
 14 and submit proposed amendments to come back to this body
 15 and suggestions on whatever. Then it comes back to this
 16 body and you do what you want.
 17 COMMISSIONER DELEON: So we can -- if we have
 18 something broken, we can fix it at that point?
 19 MR. KUSHI: At that point. Then upon your
 20 receipt, then you have to let the Council know what
 21 you've done with the agenda. But then the overall
 22 deadline is the proposals to the Clerk.
 23 COMMISSIONER DELEON: Right. Okay. So,
 24 Mr. Chair, I take back my comments because we'll have
 25 time to fix anything that's broken.

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1 CHAIR STONE: Yes, I agree. Very good. Okay.
 2 So let's do that.
 3 We're going to -- oh, sorry, Susan. Go ahead.
 4 COMMISSIONER MOIKEHA: If you're going to go
 5 and correct this, I want to bring this back up again.
 6 This is Section 13.2, on the indemnification. And I am
 7 not asking anybody to change anything, if you don't feel
 8 that's the right thing to do.
 9 First of all, this last line came in. And
 10 this is the first time we're seeing it in written draft.
 11 And I don't remember this being part of our conversation
 12 at our last meeting. If it was, then that's my error.
 13 This thing still is not clear in my mind. And for no
 14 other reason, it needs to be clear, because I voted on
 15 it.
 16 So using the scenario that Flo used, we're
 17 Commission Members, we are being sued, we have acted in
 18 good faith within our discharge of our duties, Corp
 19 Counsel has agreed to indemnify us by paying for and
 20 defending us, and, at the end of the day, we lose and
 21 there's a judgment personally against each one of us.
 22 Is that what this is referring to, this judgment?
 23 MS. BRODER: Okay. That is referring to a
 24 judgment of punitive damages; not a judgment for general
 25 compensatory damages. So that is for lost wages or

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1 something like that. That is only referring to punitive
 2 damages which would be if a person was acting in a
 3 willful and wanton disregard or acting in bad manner of
 4 bad faith.
 5 Maybe the judge can add something.
 6 COMMISSIONER BAXA: Mr. Chair?
 7 CHAIR STONE: Go ahead, Commissioner Baxa.
 8 COMMISSIONER BAXA: Are you done?
 9 MS. BRODER: Yes, I am.
 10 COMMISSIONER BAXA: Before I go into that
 11 question, there is (inaudible). I know that we use the
 12 word, in the event, (inaudible) in the first portion,
 13 yeah, and then it continues, in good faith discharge of
 14 their official duties and indemnify said members in the
 15 event of -- in the event of the lawful performance. Why
 16 do we need the words "in the event of?" Why don't we
 17 just say, "in the lawful performance?" Why do we need
 18 the word "in the event?"
 19 COMMISSIONER DELEON: Mr. Chair?
 20 CHAIR STONE: Yeah, one second.
 21 COMMISSIONER DELEON: Point of order. Are we
 22 going to lunch?
 23 CHAIR STONE: Yeah. And, also --
 24 COMMISSIONER DELEON: If we're going to do
 25 this, let's do it after lunch.

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1 CHAIR STONE: Yes. It's time for a break.
 2 COMMISSIONER MOIKEHA: Chair?
 3 CHAIR STONE: Yes, please.
 4 COMMISSIONER MOIKEHA: Then give clarity as to
 5 what we're doing here. Because I'll save this. I heard
 6 we were going to print up this document in final form,
 7 and that's it, and then we're going to vote on it. If
 8 you're going to do that, then I want this clarified.
 9 We voted on a number of these proposals and we
 10 keep going back and revoting. So I think this is within
 11 jurisdiction of acceptable process. I am not
 12 comfortable with what happened here. And I went along
 13 with it. And if you want to make it so we can address
 14 it after lunch, I am fine with that.
 15 CHAIR STONE: Susan, I'm sorry, with all due
 16 respect, we did discuss this issue. We just voted on
 17 it. And my understanding, we got clarification after
 18 clarification. So I do -- I do respect what you're
 19 saying, but we literally just did it.
 20 COMMISSIONER MOIKEHA: May I address that
 21 comment, Chair?
 22 CHAIR STONE: Sure. Please, go ahead.
 23 COMMISSIONER MOIKEHA: Okay. We went back and
 24 changed number one proposal three times. We took a
 25 break, we came back, Ed had some comments, we went back

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1 and changed it. And that's true of some of these other
 2 ones. Okay. There's something not right within me
 3 about this. I am not saying that something is wrong who
 4 proposed it; it just needs to be clear.
 5 And this is what we were talking about before,
 6 this timeframe that we're on to get things done doesn't
 7 allow us time to absorb some language that we've never
 8 seen before.
 9 This last line -- and if it is part of a
 10 already established HRS, then why do we need it in there
 11 to begin with? Because it's confusing me. You're using
 12 indemnify a member for any portion of judgment.
 13 Indemnify means, as I understand it -- and correct me if
 14 I'm wrong -- to pay for or defend. So what are you --
 15 judgments come after a case. Okay. Can a judgment be
 16 appealed? Okay. So is it final yet? No. Does that
 17 mean that here?
 18 I mean, these questions are starting to come
 19 up in my head as I am sitting here, thinking about this.
 20 Am I giving too much thought to it? Maybe.
 21 But, you know, there is a process that -- by
 22 what we've already done here. We've gone back several
 23 times to different proposals after we said this was
 24 final, done and over with. And this is where I am
 25 coming with on this. If you want to take a lunch break,

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1 I am okay with that; you don't want to address it, this
 2 Commission doesn't want to, I am fine with that, too.
 3 But I've said what I needed to say in good conscious.
 4 CHAIR STONE: Okay. And I appreciate that.
 5 Go ahead, Judge Baxa.
 6 COMMISSIONER BAXA: Yeah, Mr. Chair. You
 7 know, I don't know whether we are going to lunch here,
 8 but I would just like to comment, too, on that last
 9 sentence, the County shall indemnify a member for any
 10 portion of a judgment or settlement that represents
 11 punitive or exemplary damages. I assume that in this
 12 case either the Corporation Counsel will make the
 13 defense or a third attorney will be hired to defend the
 14 commission.
 15 I have a question -- I do not have a question
 16 as to the judgment. It should -- maybe we could add the
 17 word "final" before the judgment.
 18 Secondly, the word "settlement." Why do we
 19 have to put the word settlement when we are talking
 20 about punitive damages? Normally, punitive damages is
 21 being given by the jury, something like that, not
 22 something that the attorney will have to settle for.
 23 Why would my attorney settle for punitive damages?
 24 CHAIR STONE: Let's pass that on to Ed and
 25 Sherry. Please, clarification.

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1 MR. KUSHI: I am not sure. I can see one
 2 instance a settlement for lesser punitive damages.
 3 Instead of a million, I'll pay half a million. I am not
 4 sure. And I agree, we don't need that sentence in
 5 there, take it out, because that's the state of the law.
 6 COMMISSIONER DELEON: So moved.
 7 COMMISSIONER MOIKEHA: Second.
 8 CHAIR STONE: Okay. We have a motion to
 9 remove from Proposal Number --
 10 COMMISSIONER SUGIMURA: 6.
 11 CHAIR STONE: -- 6, Proposal Number 6, Section
 12 13-2(18), the last sentence, to strike "The County shall
 13 not indemnify a member for any portion of a judgment or
 14 settlement that represents punitive or exemplary
 15 damages." Any further discussion?
 16 (No Response.)
 17 CHAIR STONE: Okay. All in favor of removing
 18 that sentence, raise your hand and say "aye."
 19 (Ayes.)
 20 CHAIR STONE: Cliff? Thank you. Unanimous.
 21 Very good.
 22 Okay. Is there anything that we should go
 23 back to and discuss before I take a lunch break? You
 24 guys -- that is a very valid point, Susan, that we are
 25 making the list to vote on as the Final Report. So if

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1 there is something, now is the time to bring it up.
 2 And, again, guys, we're going to be able to bring it up
 3 again as well. So --
 4 (No Response.)
 5 CHAIR STONE: No? Okay. Good. All right.
 6 Thank you. So we will adjourn until -- we'll have a
 7 lunch break until say -- let's take -- let's go to 2:30.
 8 All right?
 9 MR. KUSHI: Mr. Chair?
 10 CHAIR STONE: Yes.
 11 MR. KUSHI: Staff needs more time.
 12 CHAIR STONE: Sorry. How much time do you
 13 guys need? Excuse me.
 14 MR. KUSHI: One hour.
 15 MS. KAHUHU: At least an hour, so I can eat a
 16 little something, too.
 17 CHAIR STONE: What do you mean eat? You don't
 18 need to eat. Come on. No. Okay. We'll take an hour
 19 break. So we --
 20 MS. KAHUHU: If I finish early, I'll come
 21 right back.
 22 CHAIR STONE: I'll make it a little longer
 23 than an hour. All right? We'll be back here at 3:00.
 24 All right? Thank you.
 25 (Recess, 1:50 p.m. to 3:03 p.m.)

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1 CHAIR STONE: Okay, everybody, I would like to
 2 call this meeting back to order as of 3:00 p.m.
 3 And, again, on the record, I want to say thank
 4 you very much to Lisa for getting this done. Thank you,
 5 Lisa.
 6 MS. KAHUHU: You're welcome.
 7 CHAIR STONE: That was awesome, giving up some
 8 of your lunch.
 9 Okay. So we have before us the Final Draft
 10 Report. And there is one thing that was missing. And I
 11 just want to point it out so that we can put it in. And
 12 that is on which page? Page 11, correct? Sherry
 13 erroneously removed a line which we did not request.
 14 And that line would go on -- if you're looking at Page
 15 11, it's the very middle of the page, sub .4, Subsection
 16 4. And if you notice, The County Auditor shall submit
 17 its budget to the County Council subject to Article 9,
 18 section 2.1. And we did not remove --
 19 MS. BRODER: "The County Auditor shall submit
 20 its budget to the County Council and its budget shall
 21 include the Cost of Government Commission budget subject
 22 to Article 9, Section 2.1."
 23 CHAIR STONE: So that's -- okay. So we voted
 24 to -- what we had voted had that language included. All
 25 right? So Sherry's got that covered. All right.

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1 So let's begin the discussion. What we are
 2 trying to do is approve our -- our Final Report that's
 3 going to go to Council. So --
 4 MS. BRODER: These are the ones you changed.
 5 CHAIR STONE: Yeah, and I need that list.
 6 Sherry has marked off what we've amended today so we
 7 could easily go to those proposals just to make sure the
 8 language is correct in this. So let's start with the
 9 Table of Contents.
 10 COMMISSIONER SUGIMURA: Do we have to check
 11 the page numbers?
 12 CHAIR STONE: I am doing that. But, yeah, go
 13 ahead, please. Go ahead, Dave.
 14 COMMISSIONER DELEON: Proposal 9, the title,
 15 to add sustainability. I thought we were adding
 16 environmental protection and sustainability. There's
 17 like four items there, actually. When you center in on
 18 one word like sustainability, you are kind of like
 19 ignoring the other and going in the wrong way. I got a
 20 nervous queasy when I saw that in The Maui News, too,
 21 because they were talking about sustainability in the
 22 news report. And I think the emphasis was on
 23 environmental protection. So at the minimum, I would
 24 suggest that the title include environmental protection
 25 and not just sustainability.

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1 CHAIR STONE: Okay. Let me get to that.
 2 COMMISSIONER DELEON: This is on Page 2. Page
 3 2, Proposal 9, the title is "Department of Environmental
 4 Management, to add sustainability to the powers, duties
 5 and functions of the Department of Environmental
 6 Management." And I guess that's reflected in the title
 7 on Page 18.
 8 My problem is, "sustainability" is the
 9 buzzword and also turns certain people off in the sense
 10 (inaudible) green, trying to be more green than
 11 Greenpeace, where it's much more here than that. And so
 12 (inaudible) where that's too narrow. It gives the wrong
 13 impression.
 14 CHAIR STONE: Okay. Thank you, Dave.
 15 Any further discussion on that?
 16 COMMISSIONER DELEON: Do you need a motion,
 17 Mr. Chair?
 18 CHAIR STONE: Yeah. If we're going to amend
 19 it, yes.
 20 COMMISSIONER DELEON: I would move to say
 21 "environmental protection and sustainability." Add the
 22 words "environmental protection and."
 23 CHAIR STONE: Okay. Is there a second to that
 24 motion?
 25 COMMISSIONER CRIVELLO: Second.

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1 CHAIR STONE: Okay. That motion has been
 2 seconded to add environmental protection and
 3 sustainability to the title. All right. Discussion?
 4 That is on Page -- that would be in Page 2 as well as
 5 Page 18. Okay. Any further --
 6 (No Response.)
 7 CHAIR STONE: No discussion. All right. All
 8 in favor of amending that language to add environmental
 9 protection and sustainability to the title for Proposal
 10 Nine, please raise your hand and say "aye."
 11 (Ayes.)
 12 CHAIR STONE: Cliff, thank you. Unanimous.
 13 Okay. Very good. Continuing on with Table of
 14 Contents. Any other discussion on Table of Contents?
 15 (No Response.)
 16 CHAIR STONE: No. Good. Moving on to Page 3,
 17 that is our background as well as organization. Let's
 18 take a brief moment to go over that.
 19 COMMISSIONER SUGIMURA: I want to say
 20 something.
 21 CHAIR STONE: Yes, go ahead, Yuki.
 22 COMMISSIONER SUGIMURA: I just want to say I
 23 am very grateful to Sherry. And it's unfortunate that
 24 this has to be in our report. And I wish I could have
 25 met your husband.

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<p>1 MS. BRODER: Thank you.</p> <p>2 COMMISSIONER SUGIMURA: I really, really wish.</p> <p>3 CHAIR STONE: Thank you, Sherry.</p> <p>4 COMMISSIONER DE REGO: Are we on Page 3 or in</p> <p>5 the whole section?</p> <p>6 CHAIR STONE: Right now, three. If anybody</p> <p>7 has any --</p> <p>8 COMMISSIONER SUGIMURA: Move to approve.</p> <p>9 CHAIR STONE: We don't need to move to</p> <p>10 approve. There's no changes.</p> <p>11 COMMISSIONER DE REGO: Yeah. I think there is</p> <p>12 one thing here that, besides following all the rules</p> <p>13 established by the State Sunshine Law, we also approved</p> <p>14 and amended our own set of rules. I think that's an</p> <p>15 important part of the record. So --</p> <p>16 CHAIR STONE: Sorry. Which page is that on?</p> <p>17 COMMISSIONER DE REGO: Page 4 where it says</p> <p>18 the -- Paragraph 3. "The Commission followed all the</p> <p>19 rules established by the State's Sunshine Law in posting</p> <p>20 agendas in a timely fashion, and in allowing public</p> <p>21 testimony at all of its" -- we also established and</p> <p>22 passed our own rules governing the Commission. I think</p> <p>23 that's an important part of historical record in our</p> <p>24 organization that should be listed.</p> <p>25 CHAIR STONE: Okay. Want to put a motion?</p>	<p>1 on Page 6?</p> <p>2 CHAIR STONE: Deliberations at its.</p> <p>3 COMMISSIONER DELEON: Yeah. Its deliberation</p> <p>4 at its --</p> <p>5 MS. KAHUHU: Just do a global check for that.</p> <p>6 CHAIR STONE: Okay.</p> <p>7 COMMISSIONER SUGIMURA: What are you talking</p> <p>8 about?</p> <p>9 CHAIR STONE: Does anybody notice anything</p> <p>10 further on these first pages prior to getting to the</p> <p>11 proposals besides the "its?"</p> <p>12 MS. KAHUHU: Not having the meeting, that's</p> <p>13 why.</p> <p>14 COMMISSIONER SUGIMURA: Oh. Oh, I see.</p> <p>15 CHAIR STONE: The "its" and the change to</p> <p>16 Proposal 9, that's it, right?</p> <p>17 COMMISSIONER DE REGO: I just have a question.</p> <p>18 This idea of a total of 125-plus --</p> <p>19 CHAIR STONE: Go ahead.</p> <p>20 COMMISSIONER DE REGO: I don't know. I just</p> <p>21 have -- it just seems like a funny phrase. I mean, did</p> <p>22 we have 125 proposals, did we have more than 125</p> <p>23 proposals? I mean -- or are we counting the plus as the</p> <p>24 ones that kept rolling in after we reached a certain</p> <p>25 number?</p>
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<p>1 MS. KAHUHU: Chair? Sorry.</p> <p>2 COMMISSIONER DE REGO: Is it there?</p> <p>3 MS. KAHUHU: That's mentioned in the very</p> <p>4 first paragraph, last sentence, under Organization.</p> <p>5 CHAIR STONE: Oh.</p> <p>6 COMMISSIONER DE REGO: Oh, okay. I missed</p> <p>7 that. I'm sorry.</p> <p>8 CHAIR STONE: Okay.</p> <p>9 MS. BRODER: It should be I-T-S on Page 4,</p> <p>10 Paragraph 3, instead of apostrophe S.</p> <p>11 CHAIR STONE: Page 4, Paragraph 3.</p> <p>12 MS. BRODER: Should be just I-T-S.</p> <p>13 CHAIR STONE: I-T-S, got it. Page 4, one,</p> <p>14 two, three -- oh, that's Paragraph 4.</p> <p>15 MS. BRODER: Well --</p> <p>16 CHAIR STONE: Depends on how you do it, right?</p> <p>17 MS. KAHUHU: Oh, yeah. Sorry, dear.</p> <p>18 CHAIR STONE: Remove that apostrophe.</p> <p>19 So all of these meetings are confirmed, Lisa?</p> <p>20 MS. KAHUHU: Yes.</p> <p>21 CHAIR STONE: Geez Louise.</p> <p>22 COMMISSIONER SUGIMURA: Interesting, yeah.</p> <p>23 CHAIR STONE: Gosh.</p> <p>24 COMMISSIONER SUGIMURA: It has to be exact.</p> <p>25 COMMISSIONER DELEON: You got the its, I-T-S,</p>	<p>1 MS. BRODER: I think we're counting all the</p> <p>2 ones that -- we're counting all the ones that have made</p> <p>3 it on that, the pages and pages and pages.</p> <p>4 COMMISSIONER DE REGO: Okay. We stopped</p> <p>5 counting after --</p> <p>6 CHAIR STONE: Frank, are you good?</p> <p>7 COMMISSIONER DE REGO: I am good.</p> <p>8 CHAIR STONE: Did you get your inhaler?</p> <p>9 COMMISSIONER DE REGO: (Inaudible.)</p> <p>10 CHAIR STONE: Okay. No further changes?</p> <p>11 COMMISSIONER DELEON: I had a thought. In</p> <p>12 reference to the housekeeping, could we put a statement</p> <p>13 like on Page 6, the County Council, for the Charter</p> <p>14 Commission report? You mention 11 proposals.</p> <p>15 (Inaudible) 12th proposal related to general</p> <p>16 housekeeping measures is under consideration. So by its</p> <p>17 nature, housekeeping is supposed to be not significant.</p> <p>18 So you know, you can't put it in here. It's just a</p> <p>19 thought to say that you covered the bases and still have</p> <p>20 a possibility of (inaudible).</p> <p>21 CHAIR STONE: Any ideas on that, Ed, Sherry?</p> <p>22 Is that --</p> <p>23 MS. BRODER: Well, I guess Ed already</p> <p>24 explained, you have to say specifically what it is that</p> <p>25 you're going to change. And so, you know, just having a</p>

<p style="text-align: right;">Page 165</p> <p>1 catchall housekeeping isn't going to do it. 2 COMMISSIONER DELEON: Okay. 3 MS. BRODER: Sorry. 4 COMMISSIONER DELEON: Okay. (Inaudible.) 5 CHAIR STONE: Never give up, Dave. 6 Commissioners, any further discussion? 7 (No Response.) 8 CHAIR STONE: Okay. Good. Moving on to the 9 recommendations for substantive changes to the Maui 10 County Charter. Again, Sherry, Lisa and Ed had this 11 written up and printed for us with the amendments that 12 we made earlier today. 13 And so the first one that we made amendments 14 to today is Proposal 1. And, Sherry, do you want to 15 specify where we made those changes so that we can just 16 verify? 17 MS. BRODER: Okay. We made it effective 18 January -- you made it effective January 2nd, 2015, the 19 change. And then when you took off that last clause 20 that -- you know, about whichever is longer. Because 21 after looking at it further, you decided that it wasn't 22 necessary, that was pretty clear the way it was without 23 the additional language. And, actually, the additional 24 language was actually capability of misinterpretation. 25 So --</p>	<p style="text-align: right;">Page 167</p> <p>1 of that sentence. "Or 12 years, whichever time is 2 longer," delete that. 3 COMMISSIONER SUGIMURA: Okay. 4 CHAIR STONE: Very good. Take a motion on 5 that, yeah. All right. Can I have a motion to amend -- 6 accept that amendment? 7 COMMISSIONER DE REGO: I so move. 8 COMMISSIONER DELEON: Second. 9 CHAIR STONE: Thank you. We have a motion put 10 forward, Dave seconded. Discussion. 11 (No Response.) 12 CHAIR STONE: No discussion. All in favor of 13 approving that amendment, raise your hand and say "aye." 14 (Ayes.) 15 CHAIR STONE: Very good. Unanimous. Okay. 16 In the next proposal that we made amendments 17 to today was Proposal 3, Page 9. And, Sherry, can you 18 let us know what we did? 19 MS. BRODER: Okay. That one -- okay. Go to 20 Page 11, Number 4. Okay. So -- but, actually, it 21 should say, "The County Auditor shall submit its budget 22 to the County Council and its budget shall include the 23 Cost of Government budget, subject to Article 9, Section 24 2.1. And then you removed what was formerly Section 1, 25 which in the -- in Section 3-8.4, you removed Section 1,</p>
<p style="text-align: right;">Page 166</p> <p>1 CHAIR STONE: Any issues with the amendments? 2 (No Response.) 3 CHAIR STONE: Okay. Good. Moving on to the 4 next proposal that we amended, was Proposal 3, and 5 that's on Page 9. 6 MS. KAHUHU: Chair, can I interrupt? I'm 7 sorry. With regards to Number 1, it's been brought to 8 my attention that the ballot question is not consistent 9 with the changes. 10 CHAIR STONE: Ah. Good catch. 11 MS. BRODER: So what I think you should do is, 12 where it says three consecutive terms -- okay, on the 13 ballot question, on (b), take out "or 12 years, 14 whichever time is longer." Okay. 15 COMMISSIONER WIGER: Yeah. 16 MS. BRODER: On (b), and then it will be 17 consistent. 18 Thank you, Lisa. 19 Is that okay? Does that sound right? 20 COMMISSIONER SUGIMURA: Say it again. 21 MS. BRODER: Ed, do you agree with that? 22 MR. KUSHI: Yes. 23 MS. BRODER: Okay. On (b), on Page 8, at the 24 top, ballot question should say, "Limit the term to no 25 more than three consecutive terms," and delete the rest</p>	<p style="text-align: right;">Page 168</p> <p>1 which said, "Prepare and submit to the auditor requests 2 for appropriation to the operation of the commission."" 3 So you deleted that. And those were the only changes. 4 CHAIR STONE: Yeah. Very good. 5 MR. KUSHI: Mr. Chair? 6 CHAIR STONE: Please, go ahead, Ed. 7 MR. KUSHI: Reference to the Charter section 8 should be Article 9, Section 9-2.1. 9 MS. BRODER: Well, the reason I did it the way 10 I did is because you're already saying Article 9. You 11 want -- I think it needs to be 9-2(1). 12 MR. KUSHI: Yes, it is 9-2(1). 13 MS. BRODER: Okay. All right. Shall I say 14 that again, then? 15 CHAIR STONE: Yeah, please say that again. 16 MS. BRODER: "The County Auditor shall submit 17 its budget to the County Council and its budget shall 18 include the Cost of Government budget subject to Article 19 9, Section 9-2(1)." And then deleted Number 1 in 20 Section 3-8.4 which was, "The commission shall have the 21 power and duty to," and this is what you deleted, 22 "prepare and submit to the auditor a request for an 23 appropriation for the operation of the commission." So 24 since you deleted Number 1, I re-numbered 1, 2 and 3, 25 and there's no longer a 4.</p>

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<p>1 CHAIR STONE: Do I have a motion to accept 2 those amendments? 3 COMMISSIONER WIGER: So moved. 4 CHAIR STONE: Thank you, Flo. Do I have a 5 second? 6 COMMISSIONER CRIVELLO: Second. 7 CHAIR STONE: Yuki. Or was that Stacy? 8 Sorry. Stacy. 9 Okay. Any further discussion? 10 (No Response.) 11 CHAIR STONE: All in favor of accepting the 12 amendments, raise your hand and say "aye." 13 (Ayes.) 14 CHAIR STONE: Judge Baxa? 15 COMMISSIONER BAXA: Aye. 16 CHAIR STONE: Very good. Unanimous. 17 Okay. The next proposal that we made 18 amendments to, Sherry? 19 MS. BRODER: Is that just the -- 20 CHAIR STONE: No. Susan had -- we had -- 21 MS. BRODER: Oh, Number 6. 22 COMMISSIONER SUGIMURA: Page 16. 23 MS. BRODER: Page 16. 24 CHAIR STONE: So Page 16, Proposal 6. And we 25 removed -- we struck the sentence, the last sentence of</p>	<p>1 motion forward. 2 COMMISSIONER DE REGO: I move that we accept 3 the Charter Commission report, as amended. 4 CHAIR STONE: Thank you, Frank. 5 COMMISSIONER SUGIMURA: Second. 6 CHAIR STONE: Seconded by Yuki. Thanks very 7 much. 8 Any further discussion? Ed has something to 9 say. 10 MR. KUSHI: Yeah. Mr. Chair, as part of your 11 discussion, so that the Commissioners fully acknowledge 12 and full disclosure for the record, Sherry and I looked 13 at the Draft Report -- and this is a draft -- 14 CHAIR STONE: Uh-huh. 15 MR. KUSHI: When it comes back from the 16 Council, you'll have a chance to be able to do a final 17 form. So you'll have a chance to revise it. But in any 18 event, as compared to the previous Charter Commission's 19 report, you should know that there's no introductory or 20 commentary on each proposal as compared to the previous 21 report. There's no pros and cons as compared to the 22 previous report of each proposal. There's no discussion 23 or statement of Commission policy recommendations as 24 compared to the previous report. And, of course, 25 there's no housekeeping provisions.</p>
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<p>1 that proposal. And, Sherry, could you just let us know 2 what we took out? 3 MS. BRODER: I took out -- 4 CHAIR STONE: I'll get on the same page as 5 you. 6 MS. BRODER: I took out "The County shall not 7 indemnify a member for any portion of a judgment or 8 settlement that represents punitive or exemplary 9 damages." So that was taken out. 10 CHAIR STONE: Without objection, we'll accept 11 that amendment. Very good. 12 Okay. Next -- 13 MS. BRODER: That was the Preamble. 14 CHAIR STONE: Yeah. The Preamble was our next 15 proposal that we amended. And that is on Page -- 16 MS. BRODER: 22. 17 CHAIR STONE: 22, thank you. Any issues with 18 the amendments? 19 (No Response.) 20 CHAIR STONE: Very good, no discussion on the 21 amendments. Without objection, accept the amendments. 22 All. 23 Right. And so that completes our Final 24 Report. Let's take a vote to accept the Final Report, 25 with amendments, if somebody wouldn't mind putting the</p>	<p>1 So as long as you guys know what you're 2 submitting now, and you may have a chance to include 3 these -- these areas or items as you desire when the 4 report comes back. 5 (Phone ringing.) 6 CHAIR STONE: Oh, my gosh. That's not me. 7 MR. KUSHI: Again, these are just -- it's 8 nothing set in stone, Sherry and I discussed this, to 9 have any of these things included. It just says the 10 Commission shall submit a report. 11 CHAIR STONE: Thank you, Ed. 12 One second, please. Okay. 13 Any discussion on what Ed -- 14 COMMISSIONER SUGIMURA: So, basically, what Ed 15 is saying is that what we see today, we have to just 16 remember it because, when it comes back from the 17 Council, it's not going to have as much information? 18 MR. KUSHI: No. What I am saying is what you 19 have -- vote on today and submit to the Council next 20 week is very different from what the Charter Commission 21 did in 2001. 22 COMMISSIONER DE REGO: Can I make a comment? 23 CHAIR STONE: Yeah. Go ahead, Frank. 24 COMMISSIONER DE REGO: I would agree with Ed. 25 Not only last Commission, but if you look at the</p>

<p style="text-align: right;">Page 173</p> <p>1 excerpts from the Commission reports of '72, I think it 2 is, and '82, that John Smith -- or is it Jim? I'm 3 sorry. Jim Smith submitted to us, it seems the other 4 Charter Commissions went at length to explain the 5 rationale behind their decisions in terms of how each of 6 those Charter recommendations fell in line with their 7 sort of philosophy of government at that particular 8 point. So I don't know if that's something that we 9 would want to attempt in the Final Report, but I think 10 what Ed is pointing out is cogent in the sense that it's 11 true. 12 CHAIR STONE: Thanks, Frank. 13 And, also, if you don't mind, before we move 14 forward, could you amend your motion, since this is not 15 approval of the Final Report, it's approval of the Draft 16 Report? 17 COMMISSIONER DE REGO: Okay. Yes. I accept 18 that amendment, so I move that we accept the draft 19 version of the report to be forwarded to the Council. 20 CHAIR STONE: Yuki, second? Okay, good. 21 Ed, we can add that stuff in later, after it 22 comes back from Council, correct? 23 MR. KUSHI: There's nothing to prevent you 24 from doing that. 25 CHAIR STONE: Very good.</p>	<p style="text-align: right;">Page 175</p> <p>1 had the pros and cons statements. That may be good, 2 but, in my opinion, the pros and cons, while it might be 3 enlightening for the public to know certain positions, I 4 think it is better that we have it the way it is, that 5 this is the whole thing of the commission, not about the 6 pros and cons. 7 CHAIR STONE: Thank you, Commissioner Baxa. 8 Thank you. 9 Go ahead, Dave. 10 COMMISSIONER DELEON: I would like to know 11 from Ed whether he thinks there's anything critically 12 missing, if there's anything like -- is it self -- to 13 me, the proposals, each item seems to be self-evident. 14 But is there like something that we need to be doing to 15 be able to make sure that this doesn't arrive with a 16 thud at the Council? Anything that -- we need to have a 17 description of the purpose of each one, or -- or are 18 they clear enough in their proposal? 19 MR. KUSHI: My opinion, from what I 20 understand, it's not a requirement that you do any 21 justification for any of your proposals. It would help, 22 if I was a councilperson sitting there, why did the 23 Commission choose this over -- why did it reject 24 proposals which you haven't even stated you received, 25 why did you not consider district voting, et cetera, et</p>
<p style="text-align: right;">Page 174</p> <p>1 MR. KUSHI: If and when you have the time. 2 CHAIR STONE: Well, we have more time than we 3 have right now. 4 Any further discussion? 5 COMMISSIONER SUGIMURA: Do you recommend that 6 we add it on? 7 MR. KUSHI: Well, you're facing a deadline, 8 next week. And I have to advise you to meet that 9 deadline; otherwise, the Council will say your report is 10 not acceptable. 11 COMMISSIONER SUGIMURA: So it is what it is. 12 CHAIR STONE: As the Chair, my preference is 13 not to convince the Council of how good our choices are, 14 but the public. So I think the more important thing is 15 that, when this comes back from the Council, then we 16 have the opportunity to -- what we're going to be 17 planning on is how do we present this to the public. 18 And that's the time when we want to justify our 19 proposals. So I think the Council is intelligent enough 20 to figure it out, why we suggested these proposals. So 21 I don't think it's critical thing as a Draft Report 22 going to Council. But -- Commissioner Baxa. 23 COMMISSIONER BAXA: Mr. Chair, I know that 24 Mr. Kushi said that it is different from what they did 25 during the last time. The last time, I understand, they</p>	<p style="text-align: right;">Page 176</p> <p>1 cetera. 2 Again, the schedule requires you to submit 3 something to the Council by a date certain. And this 4 meets that requirement. Albeit, bare bones. And, 5 again, the proposals speak for themselves. 6 CHAIR STONE: Thank you, Ed. 7 Mike, you had something to add? 8 MR. MOLINA: Thank you, Mr. Chair. 9 Having been a former councilmember -- and, 10 ironically, I saw that report in 2001 -- I am just 11 trying to think back to how a councilmember would look 12 at it. Of course, it's up to you as a body. I would 13 suggest, if you have the time, to incorporate some of 14 the thoughts that Mr. Kushi shared with you. 15 Every Council is different. You have some 16 members that can get caught up in the minutia, look at 17 every little detail. And they may come back with that 18 in their comments to you, why -- what was your 19 rationale, why was this not considered. Some members -- 20 some councilmembers like to, I guess, explore how 21 decisions were made. 22 So for myself, I tend to look more at the nuts 23 and bolts of each proposal, not get caught up too much 24 into the minutia otherwise; some members did. 25 Especially during an election year, a political year,</p>

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1 some members will take every opportunity in front of the
 2 public to try and dissect what you as a Charter
 3 Commission did. So I don't think it would hurt if you
 4 could consider taking into consideration some of
 5 Mr. Kushi findings or suggestions. Because they will
 6 make -- some will do some comparative analysis of what
 7 was done by the last Charter Commission.
 8 So I'll just lend that thought to you, having
 9 sat on the Council and having seen how other
 10 councilmembers operate or their mode of thinking.
 11 Especially the work of the Charter Commission is so
 12 critical to the function of our County government.
 13 So --
 14 Everything tends to get magnified a lot more
 15 in an election year, so I would, you know, maybe if not
 16 now, prior to the report, maybe after, take it into
 17 consideration.
 18 Of course, the Council may not have the time
 19 as well to closely scrutinize the document. But it
 20 wouldn't hurt to consider some of the suggestions that
 21 Mr. Kushi has made.
 22 Thank you.
 23 CHAIR STONE: Thank you, Mike.
 24 MR. KUSHI: Mr. Chair?
 25 CHAIR STONE: Yes, go ahead, Ed.

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1 MR. KUSHI: Mr. Molina, having said that,
 2 again, in our mind, myself and the Analyst, we feel this
 3 is appropriate based on the time situation. It
 4 suffices, it satisfies the requirement. And whatever
 5 the Council does, we will defend your work as to
 6 appropriateness.
 7 CHAIR STONE: Thank you very much. Thank you,
 8 Ed.
 9 COMMISSIONER BAXA: Yeah, Mr. Chair.
 10 CHAIR STONE: Go ahead, Commissioner Baxa.
 11 COMMISSIONER BAXA: With due respect to the
 12 suggestion of the Assistant to the Mayor, if we do
 13 that -- and I said it's with the greatest respect to the
 14 Council -- my thought was that the Commission is an
 15 independent body, that if we do that, it looks like we
 16 are meeting something for -- I really don't know how to
 17 say. I just want to work the way we want to work and we
 18 submit it to them. Because if we do what is being
 19 suggested, does that mean, also, that, when it comes
 20 back to us, we also demand an explanation from the
 21 Council how they did this, why they did that. I do not
 22 think they will do that. And if we do not expect
 23 something from them like that, they should not expect
 24 something from us, either.
 25 That is just my humble thought, that we are an

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1 independent body, we worked on this and we presented it
 2 the way we want it to be. And I think it is
 3 self-explanatory what we want to be scrutinized.
 4 CHAIR STONE: Thank you, Commissioner Baxa.
 5 Go ahead, Frank.
 6 COMMISSIONER DE REGO: Just a question, Ed.
 7 Do we have a copy of last year's response of the Council
 8 to the report -- I don't remember seeing that -- in any
 9 of the document that we have? It would be interesting
 10 to see how they responded last time around to the Final
 11 Report, what kind of questions they asked, what kind of
 12 things -- what kind of minutia they got into, et cetera,
 13 et cetera. Because I would imagine their response to us
 14 is going to be, in some way, shape or form, an organized
 15 report from the Council that they pass on that is sent
 16 to us.
 17 Is that correct, Mike?
 18 MR. MOLINA: Well, what could be done is
 19 maybe, under your signature, Mr. Chairman, a request to
 20 be made to the Council Services, I believe, to get some
 21 of the past minutes or response -- maybe -- maybe Corp
 22 Counsel, quite possibly, could have a response that was
 23 sent to the prior Charter Commission with comments from
 24 the Council.
 25 COMMISSIONER DE REGO: Yeah. I guess that's

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1 my question, is, you know, exactly how this does this
 2 process work from here? Is it like a printed official
 3 response from the Chair that is also signed by the other
 4 Members of the Council? Do they sort of nickel and dime
 5 us with individual sort of questions? I guess I'm not
 6 quite sure or understand what this "response" actually
 7 means and what it looks like.
 8 MR. MOLINA: If I could interject real
 9 quickly. First of all, I want to make it real clear
 10 that I wasn't trying to say that Council would be, in
 11 some ways, I guess, disrespectful in questioning what
 12 the Charter Commission does.
 13 COMMISSIONER DE REGO: No. I am not saying
 14 that, anyway.
 15 MR. MOLINA: It's just a way of making
 16 inquiries. What might -- we could look back, under your
 17 signature, Mr. Chairman, is maybe make a request for, I
 18 guess, the committee report back during that time I
 19 believe it went through the Committee of the Whole,
 20 which is now today the Policy Committee. That -- I
 21 guess those thoughts may be incorporated in the
 22 committee report.
 23 But, again, it's -- you know, which was
 24 correctly stated, Commissioner Baxa, you know, you are
 25 an independent body and you can operate in any mode you

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1 feel appropriate. And I was just, again, sharing my
 2 thoughts of what I recollected in terms of how some
 3 councilmembers may respond. And I think they're aware
 4 enough to respect you as a body and your thoughts. It's
 5 just those types of comments may come from some of them,
 6 or questions, I should say, but not any disrespectful
 7 mode or condescending mode.
 8 COMMISSIONER DE REGO: Point of order,
 9 Mr. Chair.
 10 CHAIR STONE: Go ahead, Frank.
 11 COMMISSIONER DE REGO: Are we required to
 12 respond to the response? Just like, you know, once
 13 they've responded to us, we just reproduce a Final
 14 Report. I'm not quite sure.
 15 CHAIR STONE: My understanding, Frank, is that
 16 they give us their input and it's up to us to either use
 17 it or just ignore it.
 18 COMMISSIONER DE REGO: Okay.
 19 CHAIR STONE: It's totally up to the
 20 Commission, which is why I personally am not worried
 21 about trying to explain to the councilmembers. I mean,
 22 if they want to use it as political ammo to bash down
 23 the proposals, the work, or whoever their target is, let
 24 them do it. I mean, they're going to do it regardless.
 25 So I don't think it's necessary.

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1 MR. KUSHI: Well --
 2 CHAIR STONE: And, I mean, that's what I am
 3 hearing is that, without providing our train of
 4 thought -- if they want, they can go through our
 5 minutes, just like anybody else. Send their staff to
 6 get our minutes and they can sift through it.
 7 Go ahead, Dave.
 8 COMMISSIONER DELEON: In regards to getting
 9 the report, that might be an interesting, you know, and
 10 good for our education, but we're out of time, guys.
 11 We're getting the report, but what are we going to do
 12 with it? I mean, do we have time to turn something
 13 around in the next few days --
 14 COMMISSIONER DE REGO: That was not my
 15 intention whatsoever. I was just --
 16 COMMISSIONER DELEON: Can I finish my thought?
 17 COMMISSIONER DE REGO: Oh, I'm sorry.
 18 COMMISSIONER DELEON: And the other part of
 19 that, the last time around was the time when the Council
 20 went head to head with the Charter Commission. So there
 21 would be an interesting report to read because that's
 22 when the -- when the Council did say, "No, we don't
 23 agree with your proposal on the Water Board," and came
 24 back with a different proposal altogether.
 25 So that would be very entertaining, but I just

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1 don't see where we're going to go with it and before we
 2 turn this over to the commission -- to the Council.
 3 CHAIR STONE: Thank you, Dave.
 4 Go ahead, Frank.
 5 COMMISSIONER DE REGO: For me, it's just a
 6 matter of information, so we know what we're prepared
 7 for. I mean, it's not a matter of trying to get
 8 something done in two days. That's not the intent at
 9 all. The intent is to -- you know, for interest sake,
 10 to see what kind of potential responses or questions
 11 might come up and how that's formulated. And, you know,
 12 it may not happen that way, but at least we should be
 13 prepared in some way, shape or form.
 14 CHAIR STONE: Thanks, Frank.
 15 COMMISSIONER DE REGO: Seems like an
 16 intelligent way to go.
 17 CHAIR STONE: Thanks, Frank.
 18 Susan, go ahead.
 19 COMMISSIONER MOIKEHA: I am just reading this
 20 itinerary that we put out on the Charter Commission
 21 deadlines. And what it says here, under -- you know, we
 22 have the May 2nd deadline, 30-day response deadline, it
 23 has to come back to us, to the Charter Commission, with
 24 proposed alternatives. On June 1st, if the Council does
 25 not respond with proposed alternatives to Charter

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1 Commission by May 2nd, then the Charter Commission
 2 submits the Final Report with proposed amendments to the
 3 County Clerk.
 4 So it sounds like it's not just they're going
 5 to edit it, they have to come back with some
 6 alternatives. Are they charged with an understanding
 7 that if they don't like what they see here, what are the
 8 alternatives? And if they don't respond -- if they do
 9 respond, then it's our responsibility, before June 1st,
 10 to either -- to review, accept or reject the Council
 11 proposed alternatives and report back to the Council any
 12 proposed alternatives rejected within 30 days. So we do
 13 have to respond to them if they respond to us on
 14 alternatives.
 15 COMMISSIONER DE REGO: Exactly.
 16 COMMISSIONER MOIKEHA: But I am of the same
 17 mindset. I don't think we need to have this justified
 18 to them. I think it's pretty self-evident, what we're
 19 talking about here. Either they agree to it or they'll
 20 propose amendments, or they may do nothing with it.
 21 It might be good to incorporate some of the
 22 things suggested in a final draft, you know, as was
 23 suggested today by Corp Counsel and Mr. Molina, but I
 24 think it's fine. There is no time. That's it. So it's
 25 fine the way it is.

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1 CHAIR STONE: Thank you, Susan.
 2 Go ahead, Dave.
 3 COMMISSIONER DELEON: Just a matter of note,
 4 that those documents we're talking about are available
 5 on the Charter -- the Charter Archive website already.
 6 So, I mean, if they want to go look for them, they're
 7 there. It's not hard to find, maucountycharter.com.
 8 CHAIR STONE: Thank you. Ed.
 9 MR. KUSHI: Yeah, Mr. Chair. Staff and I will
 10 try and look at the minutes in the archives and find out
 11 what exactly transpired. And maybe make copies and send
 12 it to you directly.
 13 CHAIR STONE: Very good.
 14 MR. KUSHI: Without comment.
 15 CHAIR STONE: Thank you very much.
 16 COMMISSIONER DELEON: Mr. Chair?
 17 CHAIR STONE: One second. Lisa.
 18 MS. KAHUHU: Everything on the archives is on
 19 our website.
 20 COMMISSIONER DELEON: Okay. Cool.
 21 CHAIR STONE: Thank you.
 22 Go ahead, Dave.
 23 COMMISSIONER DELEON: One other thought.
 24 There's at least one Council Charter Amendment coming
 25 that I know of. So we're not going to be alone. It

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1 doesn't relate to anything we've been doing. It was a
 2 suggestion that came from a councilmember that we never
 3 really picked up. And so --
 4 CHAIR STONE: Very good. Any further
 5 discussion on this topic?
 6 (No Response.)
 7 CHAIR STONE: No. Okay. We have a motion on
 8 the floor to accept the Draft Report as amended to send
 9 to the County Council. If there's no further
 10 discussion, I'll call for the vote. All right. All in
 11 favor, please raise your hand and say "aye."
 12 (Ayes.)
 13 CHAIR STONE: Very nice, unanimous.
 14 So congratulations.
 15 MR. KUSHI: Mr. Chair?
 16 CHAIR STONE: Commissioners, we're sending the
 17 Draft Report to the Council.
 18 Yes, Ed.
 19 MR. KUSHI: We'll schedule a report to be
 20 transmitted to the Council on March 30th, which is next
 21 week Friday.
 22 CHAIR STONE: Very good. Thank you, Ed.
 23 Awesome. Okay. Good job.
 24 And let me get back to my agenda, dig it out.
 25 Thank you, Sherry.

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1 Done, done, done. Very good. Done.
 2 Old Business. We have no Old Business.
 3 We've already discussed Communication Items.
 4 And our next -- actually, we've completed our
 5 tasks, so we are not going to need that next regular
 6 meeting on March 28th. Very good.
 7 So calendaring, Lisa, when did we have our
 8 next meeting planned after that?
 9 MS. KAHUHU: April 9th, Chair.
 10 CHAIR STONE: April 9th. Very good. And
 11 going back to the schedule, when do we receive back the
 12 report, Ed, from Council?
 13 MR. KUSHI: It would be 30 days from the day
 14 we submit. So looking at end of April, beginning of
 15 May. Early May.
 16 MS. BRODER: If you submit it on March 30th,
 17 you'll get it back on April 29th.
 18 MR. KUSHI: Or sooner.
 19 CHAIR STONE: Lisa, sorry, again, that date
 20 for the next meeting we have scheduled?
 21 MS. KAHUHU: Chair, April 9th.
 22 CHAIR STONE: April 9th.
 23 MR. KUSHI: Mr. Chair?
 24 CHAIR STONE: Yeah.
 25 MR. KUSHI: I would suggest maybe the next

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1 meeting subject to the call of the Chair.
 2 CHAIR STONE: That would be good. So that's
 3 allowed? Very good.
 4 MR. KUSHI: Then, you know, once you receive
 5 your report back from the Council, we need to calendar
 6 the next commission meeting. We need at least six days
 7 in advance to do that.
 8 CHAIR STONE: Very good. So with that said,
 9 next meeting will be at the call the Chair. Very good.
 10 Go ahead, Susan.
 11 COMMISSIONER HASHIMOTO: So the 28th is --
 12 CHAIR STONE: The 28th is off.
 13 Susan, go ahead.
 14 COMMISSIONER MOIKEHA: You know, it looks like
 15 we have nothing to do while this is sitting at Council
 16 for a maximum of 30 days, at least. Are we going to
 17 incorporate any of the suggestions that's been made by
 18 Corp Counsel as far as rationale, pros and cons?
 19 Because once we receive the document back, our focus is
 20 going to be on that, not all this other stuff.
 21 CHAIR STONE: What I would suggest to the
 22 Commissioners is do your homework. I sent out a pros
 23 and cons kind of draft list, just to get the ball
 24 rolling, basically, just kind of -- I went through all
 25 the proposals, it didn't take me very long, really, to

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1 sit down and go through the pros and cons.
 2 COMMISSIONER DELEON: Submit to who?
 3 CHAIR STONE: Well, you guys got a copy of it
 4 today. And I believe at this stage, Lisa, you could
 5 probably send it out via email, right?
 6 MS. KAHUHU: Yes.
 7 CHAIR STONE: Just as a starting point.
 8 MS. KAHUHU: It was put on your desks this
 9 morning as well.
 10 CHAIR STONE: On your desk. And I just wanted
 11 that there so that you guys could start thinking about
 12 your pros and cons, because that will be a discussion
 13 that we're going to go through, if we decide it's
 14 necessary, which I think going to the voters, I believe
 15 that is necessary, as well as the other items, I think
 16 the rationale behind our decision-making.
 17 I would wonder -- that rationale, was that
 18 done by the Analyst of the last Charter or was that done
 19 by the Commissioners themselves? Because then we're
 20 going to have a pretty long meeting deciding our
 21 rationale and agreeing on our rationale. I mean, think
 22 about that. We're going to then go into discussion
 23 about how we rationalized this and what is right and
 24 wrong in our rationale.
 25 So I am going to take a wild guess and think

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1 that that Charter Commission had their people do it and
 2 formulate the rationale behind the decision, but I don't
 3 know. I guess we should go back to the minutes and
 4 check.
 5 COMMISSIONER CRIVELLO: With approval of the
 6 Commission.
 7 CHAIR STONE: Yeah, with approval of the
 8 Commission.
 9 MS. BRODER: Well, I think, as I look at the
 10 rationale, I mean, it would seem like it would be a
 11 two-step process. First, it would have to be deciding
 12 on the pros and cons so that people know what the
 13 Commissioners think, you know, what -- what were the
 14 reasons. Actually, (inaudible). So seems like the pros
 15 answer cons.
 16 Actually, as I look at the rationale, for
 17 instance, from last time relating to the Fire
 18 Department, it just seems like, you know, in addition to
 19 the duties of the Fire Chief would be clarified and
 20 expanded. I mean, it's not really -- it's just
 21 describing -- it's just another way of saying the same
 22 thing that is actually in the -- in the Ramseyered
 23 formatted language. So it just seems like another way
 24 of saying the same thing.
 25 CHAIR STONE: Pros and cons, to me, seem to be

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1 more beneficial to the voters than formulating the
 2 rationale.
 3 Go ahead.
 4 COMMISSIONER CRIVELLO: I guess, if I am
 5 hearing Susan, is even if it comes to the pro and cons,
 6 should we have a meeting prior to receiving the report
 7 back from Council so that we can get that out of the way
 8 and have that ready? And then, when we get the report
 9 back from the Council, that's -- that will be the
 10 concentration.
 11 CHAIR STONE: Thank you --
 12 COMMISSIONER DE REGO: Chair?
 13 CHAIR STONE: -- Stacy.
 14 Judge Baxa had something to say. Commissioner
 15 Baxa. Go ahead.
 16 COMMISSIONER BAXA: Mr. Chair, I just want to
 17 clarify this. The pros and cons that we're talking
 18 about, are we sending that to the Council?
 19 COMMISSIONER DE REGO: No.
 20 CHAIR STONE: No.
 21 COMMISSIONER BAXA: If we want to do it, we
 22 want to submit it to the people?
 23 CHAIR STONE: Yes.
 24 COMMISSIONER BAXA: I see. I see. That's one
 25 clarification.

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1 I wonder, though, if you have to include both
 2 pros and cons. Should you not just give the rationale?
 3 CHAIR STONE: I understand. So, in other
 4 words, we're doubling up, pros and cons are the same
 5 thing, basically?
 6 COMMISSIONER BAXA: Well, I know in the pros
 7 and cons, you have to put the disadvantages there, you
 8 have to put advantages here. In my own mind, it would
 9 just be better on the rationale, why we are trying to
 10 put the amendment, instead of trying to (inaudible).
 11 CHAIR STONE: Good. Good point. Thank you,
 12 Judge Baxa.
 13 Go ahead, Frank.
 14 COMMISSIONER DE REGO: Just to expand on this.
 15 I think Stacy is asking the question, and so was -- but
 16 I want to expand it a little bit. I think we need to
 17 start thinking about how we're going to educate the
 18 public. I think this is what we're thinking about right
 19 now. We did have an education committee, you know, PR
 20 Committee involved in this. Are we going to continue
 21 that? Are they going to be ones who are going to sort
 22 of put their heads together and come up with the
 23 recommendation of what we should do, and we'll sit and
 24 hash it out? Or are we all 11 of us going to do that?
 25 I mean, we've got to come up with some sort of game plan

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1 in terms of how we're going handle, you know, whether or
 2 not we're going to have pros and cons, rationales, those
 3 kinds of things. And I would find having an April 9th
 4 meeting -- way before we start getting responses from
 5 the Council or input from the Council, I think we should
 6 be starting to have that conversation now, about, you
 7 know, what our education plan is going to be for the
 8 public.

9 And it might be worthwhile to put -- because
 10 they're a wonderful brain trust -- our little
 11 subcommittee, or whatever we called it, together, you
 12 know. And maybe they could sit down and come up with
 13 some recommendations. But I don't know how they feel
 14 with that. I wouldn't want to give them work they're
 15 not ready to do or want to do at this point. But --

16 CHAIR STONE: So, Frank, just to clarify, you
 17 feel more comfortable having a meeting?

18 COMMISSIONER DE REGO: April 9th, yeah. I
 19 mean, we got time, it would be good for us, because as
 20 we found out before, you know, we said, oh, we got
 21 enough time, then, all of a sudden, we start running
 22 against these deadlines, you know, we start panicking.
 23 For me, getting that education and rationale discussion
 24 as soon as possible, we've got the time, we should
 25 schedule it in and get it -- get 'er done is expression.

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1 CHAIR STONE: Very good. Thank you, Frank.
 2 Go ahead, Yuki.

3 COMMISSIONER SUGIMURA: I agree with Frank, or
 4 are we going to go on Akaku, or is Dave going to go on
 5 radio or, you know, Mayor talk show, or whatever it is,
 6 maybe we should come up with a schedule. And, also,
 7 look at what it will cost to do all the printing and
 8 what is needed as well as the translation. Don't we
 9 have to translate this into Filipino or another --

10 CHAIR STONE: Okay. Very good. Dave was
 11 next.

12 Dave, go ahead.

13 COMMISSIONER DELEON: Yeah. I'd like to
 14 suggest that we do have that April 9th meeting, maybe do
 15 a four-hour rather than six-hour schedule, and just do
 16 the work and not have to spend the whole day on it.

17 CHAIR STONE: Very good.

18 COMMISSIONER DELEON: And just as a matter of
 19 starting presentation, I was having a hard time finding
 20 stuff in here because it's all jammed together. I would
 21 take the different articles and proposals and, each one,
 22 have a separate page to it. So if it's a new article,
 23 it starts at the top of the page and works its way down
 24 and then you get to the end of that article and go to
 25 the end of the page.

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1 CHAIR STONE: As a working list for our next
 2 meeting?

3 COMMISSIONER DELEON: No. In this document.

4 COMMISSIONER SUGIMURA: That you send to
 5 Council.

6 COMMISSIONER DELEON: As a matter of courtesy.
 7 It's easier to read.

8 CHAIR STONE: Okay. Very good.
 9 Go ahead, Commissioner Baxa.

10 COMMISSIONER BAXA: Yeah. Mr. Chair, I am --
 11 this is just a follow-up from what Commissioner Sugimura
 12 said about the translation. I really don't know what
 13 are being required now of us. I know that 20 years ago,
 14 I had the privilege of translating the report of the
 15 County Charter Commission in the proposed Charter itself
 16 in Filipino. I do not propose to do that now, for
 17 myself, but --

18 COMMISSIONER DELEON: Why not?

19 COMMISSIONER BAXA: But -- no. I did that 20
 20 years ago. If you see the document, it's all in the
 21 County Clerk's Office. I don't know what the commission
 22 will do in this regard.

23 CHAIR STONE: Okay. Good. Thank you.

24 COMMISSIONER DE REGO: That's why we --

25 CHAIR STONE: Go ahead, Dave.

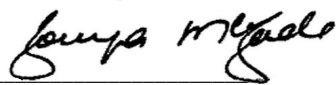
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1 COMMISSIONER DELEON: I think the translation
 2 problem is the County Clerk's. And, you know, they're
 3 going to present -- they're going to organize it for the
 4 ballot; we're not going to organize it for the ballot
 5 again. The actual ballot items that they put on the
 6 ballot. The multiple language are issues, something the
 7 clerk has to have the resources beyond the reach of this
 8 Commission, I would think.

9 CHAIR STONE: Okay. Very good. Thanks, Dave.
 10 Go ahead, Frank.

11 COMMISSIONER DE REGO: I think it's just
 12 wonderful what Yuki just did in terms of just ticking
 13 off all the kinds of things that need to be done and
 14 prepared for in order for this to happen. I am
 15 wondering, in terms of preparing for that April 9th
 16 meeting, if someone wouldn't do some thinking about that
 17 beforehand and, you know, kind of send out a checklist
 18 of things that possibly, you know, we could talk about
 19 at our next meeting, you know. As, you know, Dave said,
 20 I don't think it will take the six-hour meeting, but it
 21 would be nice to have just some sort of a checklist of
 22 things that we feel would be necessary in order to move
 23 this thing forward.

24 And I am wondering if the Commission would ask
 25 Yuki Lei to kind of spearhead that in order to get that

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<p>1 checklist together. I am trying to ask nicely, pretty 2 please. 3 CHAIR STONE: Okay. So, Yuki, you want to put 4 together a checklist as far as the marketing -- 5 marketing plan, that kind of stuff? 6 COMMISSIONER SUGIMURA: I'll pass it by you. 7 CHAIR STONE: We'll go -- I think what we 8 should do, Frank, to make it more comfortable is if we 9 continue with that special group. 10 COMMISSIONER DE REGO: Yes. 11 CHAIR STONE: That special committee. That 12 way, we got a lot of stuff done just quickly. 13 Also, what I think with we should do is 14 probably put together a draft rationale now so that we 15 can start discussing it. So maybe we have a jumping off 16 point. I mean, for example, we have the pros and cons. 17 Really, a rationale is, basically, just wording pros and 18 cons. So that's all it's going to take, really. 19 Go ahead, Susan. 20 COMMISSIONER MOIKEHA: I think what I heard Ed 21 say, also, is rationale between why we chose these 22 certain proposals over others that we didn't. I don't 23 know if that is something we want to address, because I 24 think the pros and cons really kind of say what your 25 rationale would be. You could draw from that real</p>	<p>1 Akaku, thank you very much for being here. 2 Tonya, thank you for your fingers. 3 (Meeting adjourned, 4:00 p.m.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 easily. 2 CHAIR STONE: Yeah. 3 COMMISSIONER MOIKEHA: But maybe -- and then 4 this is where someone, I think Dave raised like a 5 minority report. I mean, that could be done in a couple 6 paragraphs. Like, you know, here are some of the key 7 things we've heard, but we didn't choose to move that 8 forward. I don't know if it's something we want to put 9 in a Final Report. 10 CHAIR STONE: Okay. So from hearing from you 11 guys, we'll go ahead with the April 9th meeting, 10:00 12 a.m., here at Planning Conference Room, Kalana Pakui 13 Building. The group -- or special -- what are we 14 called -- the special PR Committee will get together and 15 go over -- Yuki, you're going to spearhead that part, 16 our checklist. We'll also work on a draft rationale for 17 the next meeting to begin the discussion on our 18 rationale for our proposals. 19 Anything else? 20 (No Response.) 21 CHAIR STONE: No, that looks -- that's it. 22 Okay. So we'll be back here on April 9th. 23 Without any objection, I am going to adjourn 24 this meeting as of 4:00 p.m. on the dot. Very good. 25 Thank you, everybody, for being here.</p>	<p>1 CERTIFICATE 2 3 4 I, TONYA MCDADE, Certified Court Reporter of 5 the State of Hawaii, do hereby certify that the 6 proceedings contained herein were taken by me in machine 7 shorthand and thereafter was reduced to print by means 8 of computer-aided transcription; and that the foregoing 9 represents, to the best of my ability, a true and 10 accurate transcript of the proceedings had in the 11 foregoing matter. 12 I further certify that I am not an attorney nor 13 an employee of any of the parties hereto, nor in any way 14 concerned with the cause. 15 DATED this 6th day of April, 2012. 16 17  18 19 Tonya McDade 20 Certified Shorthand Reporter #447 21 Registered Professional Reporter 22 Certified Realtime Reporter 23 Certified Broadcast Reporter 24 25</p>