

Approved 08/15/11

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COUNTY OF MAUI, STATE OF HAWAII

CHARTER COMMISSION  
PUBLIC HEARING

Held at Helene Hall, Hana, Maui, Hawaii, commencing  
at 6:30 p.m., on Tuesday, July 5, 2011.

Reported by: Tonya McDade, CSR, CRR  
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(Tuesday, July 5, 2011, 6:30 p.m.)

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CHAIR STONE: Hello, everybody. I'd like to say aloha to everyone for attending this public meeting of the Charter Commission. My name is Josh Stone and I am the Chairman of the Commission. If you need, there are copies of the Maui County Charter available here with Lisa Kahuhu -- Lisa, please raise your hand -- as well as copies of this evening's agenda. As per our rules, all discussions tonight shall be pertaining to the Maui County Charter.

Before beginning public testimony, we have a few items of business to address. I'd like to call this meeting to order at 6:35 and introduce our Commissioners that are present. So let's quickly go down the table and, each Commissioner, please say your name and where you live. Sorry, we only have one microphone tonight, Commissioners, so just speak up. And please introduce yourself to the public, please, starting over there, Commissioner Moikeha.

MEMBER MOIKEHA: Susan Moikeha, I'm from Kula.

MEMBER SUGIMURA: Yuki Lei Sugimura from Kula.

MEMBER CRIVELLO: Stacy Crivello from Molokai.

MEMBER DEREBO: Frank DeRego from Kahului.

MEMBER HASHIMOTO: Clifford Hashimoto from

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ATTENDANCE  
BOARD MEMBERS PRESENT:  
Joshua A. Stone, Chair  
Wayne N. Hedani, Vice-Chair  
Artemio C. Baxa, Member  
Stephanie S. Crivello, Member  
David P. DeLeon, Member  
Frank R. DeRego, Jr., Member  
Clifford P. Hashimoto, Member  
Wayne N. Hedani, Member  
Susan A. Moikeha, Member  
Linda Kay Okamoto, Member  
Yuki Lei Sugimura, Member  
Flo V. Wiger, Member  
STAFF PRESENT:  
Edward S. Kushi, Jr., First Deputy Corporation Counsel  
Lisa Kahuhu, Supervising Law Technician  
ADMINISTRATION PRESENT:  
Bill Medeiros, Executive Assistant to the Mayor  
OTHERS PRESENT:  
Neal Hasegawa  
John Blumer-Buell  
Ward Mardfin  
Ian Ballantyne  
Andrew Rainer

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Hana.

CHAIR STONE: Josh Stone from Paia.

VICE-CHAIR HEDANI: Wayne Hedani from Wailuku.

MEMBER BAXA: Artemio Baxa from Makawao.

MEMBER DELEON: Dave DeLeon, Haiku.

MEMBER OKAMOTO: Kay Okamoto from Lanai.

MEMBER WIGER: Flo Wiger, Lahaina.

CHAIR STONE: Thank you very much, Commissioners.

I'd also like to present our staff. We have Edward Kushi, Jr., Deputy Corporation Counsel. Edward over there. Again, Lisa Kahuhu who is a Supervising Law Technician. Tonya McDade who is our court reporter. And Bill Medeiros who is Executive Assistant to the Mayor. Thank you guys very much for being here.

It's important to understand that the Maui County Charter is the blueprint for how our government functions here in Maui. And it has been referred to as the Maui County Constitution. It's a document that governs our government and, among other things, determines its structure, powers, efficiency and accountability. It is, therefore, very important that the citizens of Maui County have the opportunity to address concerns and rectify problems with the Charter as perceived today. This Charter Commission is a unique

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1 opportunity to achieve those changes. And the public's  
2 input is a vital part of the amendment proposal process.  
3 As a matter of understanding, the Charter Commission may  
4 propose amendments to the Charter. These amendments  
5 must be approved by a majority of Maui County voters  
6 during an election.

7 Again, copies of the Maui County Charter and  
8 amendments are available to the public tonight with Lisa  
9 Kahuhu, if you need one.

10 I am going to begin with oral testimony, but,  
11 before I begin, I'd like to go over our oral testimony  
12 rules. We'll call up each public testifier in the order  
13 that they registered to testify. Each person will have  
14 three minutes to testify on items concerning our Maui  
15 County Charter. If the testifier requires more time, I  
16 will grant them an additional minute to complete their  
17 testimony. At the end of this additional minute, the  
18 testifier will be asked to stop their testimony. And if  
19 more time is required on an item, the testifier will be  
20 allowed an additional three minutes to complete their  
21 testimony following the testimony of all registered  
22 testifiers. Following the testifier's testimony, I will  
23 ask the Commissioners if they need clarification of the  
24 presented testimony.

25 With that, Lisa, please introduce our first

1 testifier.

2 MS. KAHUHU: Neal Hasegawa.

3 CHAIR STONE: Mr. Hasegawa, please. And if  
4 you could use the microphone, that would be much  
5 appreciated. Thank you very much for coming.

6 ...BEGIN PUBLIC TESTIMONY...

7 MR. HASEGAWA: Testing. Hi, my name's Neal  
8 Hasegawa. I was born and raised here in Hana. Went  
9 away to high school, on Oahu, then went to college in  
10 California. I came back to work back in the late 1980s  
11 with my dad, and I'm now the general manager for the  
12 Hasegawa General Store.

13 It took me a while to appreciate Hana -- and  
14 it's by being away from Hana that made me appreciate  
15 Hana even more -- and some of the things that are unique  
16 to Hana. Hana, like -- it's almost like we're on a  
17 different island than the rest of Maui, just because of  
18 the Hana Highway. And we're -- we're kind of, in many  
19 respects, treated like a different island.

20 And I'll give you an example. If I own a  
21 grocery store in Kahului or Lahaina, Frito-Lay will come  
22 and stock my shelves, Meadow Gold will come and stock my  
23 shelves, all of that. For us, we got to go pick up the  
24 bread, we got to go pick up the soda. Although Coke and  
25 Pepsi, they do come once every two weeks, but, again,

1 it's different.

2 The other thing that I notice -- and if you  
3 ever rode with somebody that was in Hana, in their car,  
4 you notice that almost every car that passes by, they  
5 wave. You know, you wave. And I thought that was kind  
6 of neat. Because I tried it in California and I got  
7 some stink eye, like fight me. I'm like, hey, how's it  
8 going. Okay. That's -- the one thing about that is if  
9 your friend waves to you or your neighbor waves to you,  
10 somebody in Hana waves to you, and you don't wave back.  
11 because you're busy with the kids or you're doing  
12 something, the next time they come in the store, they  
13 say, eh, you know what, Neal, I saw you on the beach,  
14 how come you never wave to me.

15 And that's direct accountability. And for me,  
16 having somebody from Hana represent Hana is -- that's  
17 important because of the direct accountability. You can  
18 go to his house -- he may not like it -- your  
19 councilman, and say, hey, you know what, how come you  
20 went vote like that on something, you know. It's --  
21 being in the store, I get that a lot. Because our ice  
22 machine went out this weekend, it was 4th of July  
23 weekend, I was out surfing. And somebody came up to me  
24 and said, eh -- we're in the water now -- Neal, we don't  
25 have ice, how come you not -- you know, go fix your ice

1 machine. Again, direct accountability, you know.

2 I feel more comfortable having somebody from  
3 Hana represent Hana. And I think that is -- is  
4 important about how we have things now.

5 And I'm going to have to go because my family  
6 is coming back from their vacation. And as a man,  
7 again, I procrastinated about cleaning the house and all  
8 that stuff. They come back tomorrow. And I'm just like  
9 running around like a chicken with no head, trying to  
10 clean the house. So thank you again. Thanks for  
11 coming, you guys. I really do appreciate this.

12 CHAIR STONE: Thank you, Mr. Hasegawa. But  
13 before you go clean the house, Commissioners, do we have  
14 any questions for Mr. Hasegawa?

15 (Silence.)

16 CHAIR STONE: I have a question for you. I  
17 understand the desire for the accountability in having a  
18 representative directly for Hana. How do you feel about  
19 voting at-large for that representative?

20 MR. HASEGAWA: If the person -- whoever it is,  
21 if that person -- when you say at-large, meaning all of  
22 Maui County?

23 CHAIR STONE: In other words, Hana people vote  
24 for their representative councilmember, but, also, the  
25 rest of Maui County votes. So sometimes isn't it

<p style="text-align: right;">Page 9</p> <p>1 possible that the people that Hana votes for doesn't 2 even -- isn't even elected?</p> <p>3 MR. HASEGAWA: That's true, but the person is 4 from Hana, you know. So the worst thing would happen in 5 that same kind of example, we're thrown in with another 6 district. Hana's -- you know, you look at how many 7 votes Hana has. And Hana, by itself, will never win if 8 you guys put us with somebody else, yeah. And then it's 9 going to be the person living someplace else that I will 10 never run into going surfing and say, eh, how come you 11 guys vote like that, you know. So I think the way we 12 have it now, regardless of if it's at-large, the 13 person's from Hana.</p> <p>14 CHAIR STONE: Okay. Thank you very much, 15 Commissioners?</p> <p>16 MEMBER WIGER: Question.</p> <p>17 CHAIR STONE: Question, Commissioner Wiger.</p> <p>18 MEMBER WIGER: Following up on that, if there 19 would be a model that could be developed -- because, 20 right now, there's only been a couple that have been 21 filed -- if there would be a model that could be 22 developed where Hana could have their own representative 23 that would not be elected at-large, but would be elected 24 by Hana, how would you feel about that?</p> <p>25 MR. HASEGAWA: So you're saying that it's --</p>	<p style="text-align: right;">Page 11</p> <p>1 MEMBER OKAMOTO: I'm from Lanai. And one of 2 the things that we have talked about at different times 3 was to have a primary vote that would only be in the 4 district, just like you used to have republican and 5 democrat primaries, so that Hana would select, say, the 6 two people they wanted to run, they would still run 7 county-wide because of the one man, one vote. Would 8 that be something that seems feasible to you folks?</p> <p>9 MR. HASEGAWA: I don't see anything wrong with 10 that.</p> <p>11 CHAIR STONE: Would you say you have a 12 preference, Mr. Hasegawa?</p> <p>13 MR. HASEGAWA: No. You know, the main 14 thing -- my thing is that the person has to be from 15 Hana.</p> <p>16 CHAIR STONE: Has to be in the water, okay. 17 Commissioners, any further? Commissioner Baxa.</p> <p>18 MEMBER BAXA: Mr. Hasegawa, I just want to --</p> <p>19 CHAIR STONE: Sorry. I hate to interrupt. 20 Our court reporter needs people to talk in the mic. I'm 21 sorry, we're going to have to pass it around.</p> <p>22 MEMBER BAXA: I think I got your point, but I 23 just want to be very clear. So long as the 24 representative of Hana comes from Hana, it does not 25 matter whether the person will be elected statewide or</p>
<p style="text-align: right;">Page 10</p> <p>1 the person would be from Hana?</p> <p>2 MEMBER WIGER: Yeah, elected by Hana.</p> <p>3 MR. HASEGAWA: And just Hana would vote for 4 that person?</p> <p>5 MEMBER WIGER: Yeah.</p> <p>6 MR. HASEGAWA: I think that would work, too.</p> <p>7 MEMBER WIGER: So if there was something 8 that -- whatever would be developed like that, that's 9 something you would be comfortable with because you're 10 still talking about direct accountability?</p> <p>11 MR. HASEGAWA: Yes. I think that's -- the 12 whole point about what I'm saying is the direct 13 accountability. The guy is from Hana, the person is 14 from Hana.</p> <p>15 MEMBER DEREGO: Can I ask you a question as a 16 follow-up to that?</p> <p>17 CHAIR STONE: Commissioner DeRego.</p> <p>18 MEMBER DEREGO: But you're thinking about the 19 Council, right? You would have to have a councilmember 20 that would be the representative, correct?</p> <p>21 MR. HASEGAWA: Yes. Yes.</p> <p>22 CHAIR STONE: Commissioners, any further 23 questions?</p> <p>24 MEMBER OKAMOTO: Yes.</p> <p>25 CHAIR STONE: Go ahead.</p>	<p style="text-align: right;">Page 12</p> <p>1 just district -- just from Hana?</p> <p>2 MR. HASEGAWA: Are we talking County Council 3 or are we talking like legislature?</p> <p>4 MEMBER BAXA: No, no. Just the --</p> <p>5 MEMBER OKAMOTO: He means County.</p> <p>6 MR. HASEGAWA: So you mean, not State, but --</p> <p>7 MEMBER BAXA: Let us limit it to the Council.</p> <p>8 MEMBER DELEON: County-wide.</p> <p>9 MR. HASEGAWA: Okay. So what I'm hearing you 10 saying is that it's -- the person that is elected is 11 from Hana, that's what --</p> <p>12 CHAIR STONE: That would be, obviously, the 13 prerequisite?</p> <p>14 MR. HASEGAWA: Right. Right. Right.</p> <p>15 MEMBER BAXA: But it does not matter whether 16 he will be elected statewide or just from within Hana?</p> <p>17 MR. HASEGAWA: I don't --</p> <p>18 CHAIR STONE: In your opinion?</p> <p>19 MEMBER BAXA: Your opinion.</p> <p>20 MR. HASEGAWA: I don't understand the 21 statewide thing.</p> <p>22 CHAIR STONE: I'm sorry. County-wide.</p> <p>23 MEMBER DELEON: He's mistaken.</p> <p>24 MEMBER BAXA: County-wide.</p> <p>25 MR. HASEGAWA: Yeah. To me, it doesn't</p>

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1 matter --  
 2 MEMBER BAXA: Okay.  
 3 MR. HASEGAWA: -- as long as the person is  
 4 from Hana.  
 5 MEMBER BAXA: Thank you.  
 6 MR. HASEGAWA: Or East Maui, I should say.  
 7 CHAIR STONE: Commissioner DeLeon.  
 8 MEMBER DELEON: I understand your concern.  
 9 What would you say to the folks in, say, Kihei, in other  
 10 words, where there's about 25,000 people being  
 11 represented by one person and -- and Lanai, Molokai and  
 12 Hana together make up seven percent of the total  
 13 population of the County? How do you justify that kind  
 14 of spread of representation? You get to talk to the guy  
 15 on the beach, the guy in Hana. I mean, the guy in Kihei  
 16 probably will never even get to meet the person. So is  
 17 that fair? Do you feel like that's fair it works out  
 18 that way?  
 19 MR. HASEGAWA: So you're saying if there were  
 20 more people to represent Kihei because of the  
 21 population, would they still be able to run into --  
 22 MEMBER DELEON: I'm not saying that. I'm  
 23 asking you whether it's fair to have such a small  
 24 portion of the population, Lanai, Molokai and Hana, make  
 25 up seven percent of the population total, they get 33

1 percent of the Council seats.  
 2 MR. HASEGAWA: I think it's fair for Hana.  
 3 You know, I cannot speak for Molokai. In terms of  
 4 representation for Kihei and that stuff, you know, I  
 5 think Kihei will get what Kihei wants, you know. For  
 6 me, looking at how the monies is divided, Hana sometimes  
 7 is left out because, when they look at how much people  
 8 they serve, the Council as a whole really says, oh, wait  
 9 a minute, you know, there's a project on -- in Kihei  
 10 that serves X-amount of people, there's a project in  
 11 Hana that serves X-amount of people, which one is more  
 12 viable. So they'll go with the Kihei project, you know.  
 13 So I think it's -- I think it's fair.  
 14 I think it's not going to be fair if you take  
 15 that seat away from Hana, yeah. Then it gets diluted  
 16 even more. We get lost, you know. We gonna get really  
 17 lost for representation.  
 18 CHAIR STONE: Commissioner.  
 19 MEMBER CRIVELLO: Thank you. Just for  
 20 clarification purpose. So what we see going on today  
 21 and the way we elect our Council people, in your  
 22 opinion, is working for Hana?  
 23 MR. HASEGAWA: Yes.  
 24 MEMBER CRIVELLO: The way we elect our Council  
 25 today?

1 MR. HASEGAWA: Yes.  
 2 MEMBER CRIVELLO: Thank you.  
 3 CHAIR STONE: Commissioners, any other  
 4 questions before he has to go clean? He is going to get  
 5 in trouble soon.  
 6 (Silence.)  
 7 CHAIR STONE: Okay. Thank you so much for  
 8 coming.  
 9 MR. HASEGAWA: Thank you guys.  
 10 CHAIR STONE: Thank you. Lisa, next  
 11 testifier, please.  
 12 MS. KAHUHU: John Blumer-Buell.  
 13 MR. BLUMER-BUELL: Aloha.  
 14 CHAIR STONE: Thank you very much for coming  
 15 MR. BLUMER-BUELL: Aloha, Chair Stone. And  
 16 mahalo to all of you. It's really impressive to see all  
 17 of you out here, particularly from Molokai and Lanai.  
 18 And I just want to thank you for this task that you're  
 19 undertaking. I think it's very important. And I've  
 20 heard so many meetings haven't been that well-attended,  
 21 but, let me tell you, it's very important and people  
 22 will pay more and more attention to it.  
 23 I've given you written testimony. I guess  
 24 I'll just ask the Chair to let me know when it's three  
 25 minutes, and I'll stop at four and maybe come back.

1 So I thank you for your service on the Charter  
 2 Commission. I would urge you to fully discuss these and  
 3 other ideas you receive from the residents of Maui  
 4 County and to let the voters decide. I think that's  
 5 really an important point. If you're a little unsure  
 6 about things, I say let the voters decide, let the  
 7 debate happen within the community. And I think that's  
 8 very important.  
 9 The first thing I'd like to see is the Charter  
 10 change so we have a telecommunications center for Hana,  
 11 Lanai and Molokai. Requiring by County Charter  
 12 interactive communication with the Maui County Council  
 13 and other government entities is a long overdue idea  
 14 that was expected to be implemented more than a decade  
 15 ago. The idea is cost-effective, and the infrastructure  
 16 is nearly in place with Akaku Television and University  
 17 of Hawaii Maui campus. It is difficult and costly for  
 18 residents of Hana, Lanai and Molokai to participate in  
 19 our County government.  
 20 The late Carl Lindquist, former member of  
 21 Governor Lingle's Maui Advisory Committee, attended at  
 22 least one meeting via SkyBridge from Hana. Hana  
 23 students from the University of Hawaii Maui campus  
 24 regularly attend classes via SkyBridge from Hana.  
 25 Should this democratic infrastructure idea be

<p style="text-align: right;">Page 17</p> <p>1 built into the democratic Charter of the County of Maui?</p> <p>2 I say absolutely.</p> <p>3 This is one that's very justifiable in terms</p> <p>4 of what it could do. You can also have meetings,</p> <p>5 interdepartmental meetings. We almost have the</p> <p>6 infrastructure in place already. We did talk about this</p> <p>7 during the GPAC. And Clyde Sakamoto did comment about</p> <p>8 this as well. This is very -- it's almost there</p> <p>9 already.</p> <p>10 Number two, District Voting: I urge you to</p> <p>11 allow the voters to decide the question of district</p> <p>12 voting. To date, there are three proposals for district</p> <p>13 voting I have heard of. Please keep the community</p> <p>14 posted regarding what options you are considering via</p> <p>15 your website and other media. It is important to put</p> <p>16 the best proposal, or proposals, on the ballot next</p> <p>17 year. Please give the voters the choice regarding</p> <p>18 district voting.</p> <p>19 And at this point, the three that I'm aware</p> <p>20 of, the model that seems the least confusing -- and I'm</p> <p>21 not endorsing it -- this model of three representative</p> <p>22 districts based upon the State Senate model we already</p> <p>23 have in the system right now. I've also heard of the</p> <p>24 model being proposed where we have six representatives</p> <p>25 elected from the House on the model based upon --</p>	<p style="text-align: right;">Page 19</p> <p>1 13 members based upon the population of Molokai. And</p> <p>2 Molokai would have its own seat, but it would increase</p> <p>3 the size of the County Council. I will stop for now.</p> <p>4 CHAIR STONE: Thank you very much. Lisa, just</p> <p>5 let me know when three minutes are up. Say, "Three</p> <p>6 minutes."</p> <p>7 MS. KAHUHU: Okay.</p> <p>8 CHAIR STONE: Commissioners, any questions or</p> <p>9 clarifications on the testimony? Yes, Commissioner</p> <p>10 Baxa.</p> <p>11 MEMBER BAXA: Sir, my question pertains to the</p> <p>12 residency requirement for candidates running for office.</p> <p>13 You state here that candidates should be required to</p> <p>14 have lived and voted in the district. Do I understand</p> <p>15 that to mean that he must presently live in the district</p> <p>16 and have voted in the district?</p> <p>17 MR. BLUMER-BUELL: My proposal is very simple</p> <p>18 And that is simply to require people that are running</p> <p>19 from the district to have lived in the district and</p> <p>20 voted there in the previous election.</p> <p>21 MEMBER BAXA: Yeah.</p> <p>22 MR. BLUMER-BUELL: And it's just so simple.</p> <p>23 My feeling is that -- although I'm not pointing fingers</p> <p>24 and it's a long tradition of this in the County, I think</p> <p>25 it would be much fairer and democratic to make this part</p>
<p style="text-align: right;">Page 18</p> <p>1 MS. KAHUHU: Time.</p> <p>2 CHAIR STONE: Sorry, John. Sorry to cut you</p> <p>3 off. That's time. You are welcome to come back after</p> <p>4 the other testifiers --</p> <p>5 MR. BLUMER-BUELL: I will.</p> <p>6 CHAIR STONE: -- for another three minutes.</p> <p>7 MR. BLUMER-BUELL: Okay.</p> <p>8 CHAIR STONE: But before you hand over the</p> <p>9 microphone, Commissioners, questions?</p> <p>10 MEMBER OKAMOTO: Josh, can you give him a</p> <p>11 minute to wrap up?</p> <p>12 CHAIR STONE: I believe that that was four</p> <p>13 minutes. Correct, Lisa?</p> <p>14 MS. KAHUHU: That was three minutes.</p> <p>15 CHAIR STONE: Oh, three minutes. I am so</p> <p>16 sorry. You have one more minute.</p> <p>17 MR. BLUMER-BUELL: The second model that I was</p> <p>18 talking about was based upon the current model of the</p> <p>19 State House. And that will give us six representatives</p> <p>20 from the six districts plus three at-large members. And</p> <p>21 I'm not sure if the at-large part of it wouldn't confuse</p> <p>22 the voters at this point. I'm not sure -- I like the</p> <p>23 model, but I'm not sure it wouldn't confuse people.</p> <p>24 I've heard the other model is from Harold</p> <p>25 Piltz, aka Nikhilananda, which I think he is proposing</p>	<p style="text-align: right;">Page 20</p> <p>1 of the Charter so we don't have people jumping around.</p> <p>2 MEMBER BAXA: Yeah. It looks like I'm playing</p> <p>3 semantics here, but I think it is very important. When</p> <p>4 you said the word "live," it may mean that he may have</p> <p>5 lived in the past, but not necessarily in the present.</p> <p>6 MR. BLUMER-BUELL: Right.</p> <p>7 MEMBER BAXA: He must presently live in the</p> <p>8 district and then have voted some point, you know.</p> <p>9 MR. BLUMER-BUELL: In the last election. So</p> <p>10 it means, you know, that you -- that you've lived in the</p> <p>11 district for probably a couple years and can show that</p> <p>12 you voted and live there. And this is just to, you</p> <p>13 know, I think make things more democratic and to get</p> <p>14 representatives from the districts which they live.</p> <p>15 MEMBER BAXA: Okay. Thank you.</p> <p>16 CHAIR STONE: Commissioners, any further</p> <p>17 questions for the testifier? Commissioner DeLeon.</p> <p>18 MEMBER DELEON: I agree with you on that</p> <p>19 concept of telecommunication. Do you have any idea</p> <p>20 where in the Charter that would land?</p> <p>21 MR. BLUMER-BUELL: I think I would depend upon</p> <p>22 your creative and excellent thinking to find a place. I</p> <p>23 mean, it would have something to do with the operation</p> <p>24 and charter of government. I know that we talked about</p> <p>25 this and other ideas for making government work more</p>

5 (Pages 17 to 20)

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1 efficiently during the GPAC. There's language in there  
2 to support that. I think you could -- you know, you  
3 have a -- your excellent Corporation Counsel could  
4 advise you.

5 MEMBER DELEON: Okay.

6 MR. BLUMER-BUELL: I consider this just the  
7 start of a conversation for all of us and, you know, it  
8 would get refined.

9 MEMBER DELEON: John, what level -- I mean, we  
10 can't have -- I don't know if we can have cameras in  
11 every board and commission meeting scattered throughout  
12 the County. So what level do you consider -- are you  
13 considering this to be important?

14 MR. BLUMER-BUELL: Most importantly, the  
15 County Council.

16 MEMBER DELEON: Okay.

17 MR. BLUMER-BUELL: And, you know, going back  
18 to 1998 -- and I talked with Sol Kaho'ohalahala about  
19 this last year -- and, also, Kalani English was on the  
20 Council at that time -- there were plans to do it then,  
21 the Council actually purchased some equipment, and it  
22 was never done. At this point, all these years later,  
23 we practically have that all you need now is a hookup  
24 from the County building to MCC. And you can use  
25 SkyBridge for people from Hana, Molokai and Lanai. And

1 I think that would be a great thing. And it would --  
2 you know, I hope that this kind of thing should -- I'm  
3 really focusing on Hana, Molokai and Lanai and the  
4 County Council; however, let's face it, in this day and  
5 age, we should be able to communicate much more  
6 efficiently with the State government. You know, it  
7 costs, I would say, \$500 to get from Hana to go to the  
8 State Legislature for a day. So --

9 MEMBER DELEON: I'm on the same wavelength. I  
10 had a conversation with Bob Carroll about this. He is  
11 checking with OEP -- OI -- Information Practices and  
12 Corporation Counsel about the legality of it, to make  
13 sure that we cross all our "T"s and dot our "I"s.

14 MR. BLUMER-BUELL: I think it's probably going  
15 to be very cost efficient for everybody. And if the  
16 Public Works Department wants to have a meeting,  
17 interdepartmental meeting, coming out to Hana, they  
18 don't have to spend the whole day driving out here. You  
19 know, I think there will still be a growing use of it  
20 and, you know, it will give people an opportunity they  
21 just don't have now.

22 Thank you.

23 CHAIR STONE: Thank you. Commissioners, any  
24 further questions or clarifications on the testimony?

25 (Silence.)

1 CHAIR STONE: Okay. Thank you very much. So  
2 you will be coming back, right?

3 MR. BLUMER-BUELL: I'm going to stick around.

4 CHAIR STONE: Lisa, next testifier please.

5 MS. KAHUHU: Douglas Mardfin.

6 CHAIR STONE: Mr. Mardfin, thanks for coming.

7 MR. MARDFIN: Actually I go by Ward, which is  
8 why I wrote it large.

9 Hi. Welcome, Commissioners, to Hana. I'm  
10 glad you were all able to come over here. That's very  
11 impressive. I hope you enjoyed yourself and didn't get  
12 car sick.

13 I'm Ward Mardfin. I came to Hana and lived  
14 here December of 1961, so 50 years ago. I spent a  
15 second summer here, and then, after a little bit of  
16 college, I came back for about a year and-a-half, went  
17 in the service. Had my working life on Oahu, where I  
18 was a professor of economics, but I came back every  
19 year, at least a couple times a year. I remember when  
20 Councilman Medeiros was a star tennis player over here.  
21 And we've known each other for 50 years, or 49 years, at  
22 least.

23 I have two things to talk about. I think I'll  
24 use the first one. And I've given you two handouts.

25 I'll first talk about the composition and

1 election of the County Council that Neal was talking  
2 about earlier. I, also, like the current system. It's  
3 at-large with geographic residency.

4 I did a little looking up of some stuff. And  
5 found that, to about 1939, Hana did have representation  
6 on the Board of Supervisors. There was a Hana person  
7 there. After 1939, to 1978, as far as I can tell, there  
8 was absolutely never ever, ever a person from Hana on  
9 the Board of Supervisors and, later, the Council. I  
10 don't want to go back to that system. I don't want to  
11 go back to that system.

12 In 1976, Charter change established a district  
13 residency requirement, created an East Maui. At that  
14 time there were two at-large. And at that time we  
15 started to get representation. Although, the first few  
16 elections, Alice Lee and Tom Morrow actually didn't live  
17 in Hana, they lived on the other side, but they were  
18 familiar with Hana. They represented Hana. They knew  
19 Hana well. Since Tom Morrow's passing, we've had Kalani  
20 English, we've had Robert Carroll, we've had Councilman  
21 Medeiros and back to Councilman Carroll again. They  
22 have all been excellent representatives of Hana.

23 I understand that Hana doesn't really elect  
24 the person that represents them. It's Central Maui and  
25 Lahaina that do it. I understand that. But at least

<p style="text-align: right;">Page 25</p> <p>1 there's one person here who understands Hana, one person</p> <p>2 on the Council that will understand Hana and be able to</p> <p>3 represent Hana's interests well.</p> <p>4 Moreover, during the election season, because</p> <p>5 it's at-large, all nine members generally -- not nine</p> <p>6 members -- the candidates for all nine seats generally</p> <p>7 --</p> <p>8 MS. KAHUHU: Three minutes.</p> <p>9 CHAIR STONE: Continue.</p> <p>10 MR. MARDFIN: Okay. I have one more minute on</p> <p>11 this.</p> <p>12 And that lets them get a feeling you get to</p> <p>13 meet them. The Hana -- the Hana councilman would go to</p> <p>14 Kihei and Lahaina at that time during the same election</p> <p>15 cycle and get to meet people. But the most important</p> <p>16 thing is we get nine votes. Each person in Hana, each</p> <p>17 person in every spot of the island gets nine votes. We</p> <p>18 get to go to -- when an issue is important to us, we can</p> <p>19 go to all nine councilmen and say, "We're your</p> <p>20 constituents." Now, we have to persuade them, but at</p> <p>21 least we have the opportunity to persuade them. If we</p> <p>22 only have one person that's supposed to be representing</p> <p>23 Hana instead of all nine, we convince that one person,</p> <p>24 you still need four more votes to get the five to pass</p> <p>25 anything.</p>	<p style="text-align: right;">Page 27</p> <p>1 advocate a five-year term. And then four years could be</p> <p>2 spent on the incumbent and getting things done and then</p> <p>3 there's one year to get reelected, where the mold is one</p> <p>4 year to get something going and one year to get</p> <p>5 reelected, which doesn't seem reasonable, with the cost.</p> <p>6 First point.</p> <p>7 The second point is, all the independent</p> <p>8 commissions should be under the Mayor's Office, in my</p> <p>9 opinion. At the moment, there's no way to appeal a</p> <p>10 decision by a commission. And it needs an extra tier</p> <p>11 there so that if something is going wrong within that</p> <p>12 commission, there's a way to appeal that.</p> <p>13 Just a few examples: In the Liquor</p> <p>14 Commission, it's the only place in the world I know that</p> <p>15 you can't dance just because it's a liquor license.</p> <p>16 It's the only place in the world I know that does not</p> <p>17 allow wine tasting in a store that sells wine. It's the</p> <p>18 only place in the world that I know that you're not</p> <p>19 allowed to sell liquor below cost.</p> <p>20 These are all things that, in my opinion,</p> <p>21 there should be a way to challenge that. And there</p> <p>22 isn't. I mean, whoever is incumbent in that Liquor</p> <p>23 Commission, until they leave, that's not going to</p> <p>24 change.</p> <p>25 The other thing is, this is about the most</p>
<p style="text-align: right;">Page 26</p> <p>1 So I love the at-large system. And I think</p> <p>2 it's actually good for everybody. Although, I do</p> <p>3 understand why some districts feel that they don't get</p> <p>4 to select their --</p> <p>5 MS. KAHUHU: Time.</p> <p>6 CHAIR STONE: You're welcome to come back</p> <p>7 after the other testifiers. Okay. Thank you very much</p> <p>8 for your testimony. Commissioners, do you have any</p> <p>9 questions?</p> <p>10 (Silence.)</p> <p>11 CHAIR STONE: Wait until the follow up? Okay.</p> <p>12 Thank you so much for your time. Much appreciated.</p> <p>13 MS. KAHUHU: Chair, there's no one else signed</p> <p>14 up for public testimony.</p> <p>15 CHAIR STONE: Okay. Before we look into the</p> <p>16 second round of public testimony, is there anyone here</p> <p>17 that would like to come up that has anything to say</p> <p>18 before we move on? Please. Just for the record, state</p> <p>19 your name.</p> <p>20 MR. BALLANTYNE: Ian Ballantyne from Hana</p> <p>21 Tropicals. Yeah, I got two points.</p> <p>22 First of all, regarding the term for two</p> <p>23 years, I would definitely think that, in this day and</p> <p>24 age, with the cost of elections and the time it takes,</p> <p>25 that that's kind of old-fashioned. And I would actually</p>	<p style="text-align: right;">Page 28</p> <p>1 expensive place, again, in the United States, from what</p> <p>2 I can gather, in the taxes that are collected to fund</p> <p>3 the Liquor Commission. In California, it's \$850 a year</p> <p>4 for a liquor license. Here, if you're a big seller of</p> <p>5 liquor, it can be \$40,000. And all that money is kept</p> <p>6 by the Liquor Commission. If it was under the Mayor's</p> <p>7 Office, part of that could go into the general coffer.</p> <p>8 And that would be very useful, I think. At the moment,</p> <p>9 it's all spent on visiting the establishments and trying</p> <p>10 to catch them, which I don't think is very democratic,</p> <p>11 either.</p> <p>12 So I think all the commissions should be under</p> <p>13 the Mayor's Office. Thank you.</p> <p>14 CHAIR STONE: Thank you very much.</p> <p>15 Commissioners, any questions, clarification? Yes,</p> <p>16 commissioner DeRego.</p> <p>17 MEMBER DEREGO: When you're talking about the</p> <p>18 five-year terms, are you talking about two five-year</p> <p>19 terms? Now, it's, you know, every two years, and they</p> <p>20 have an upper limit of 10. Are you talking about one</p> <p>21 five-year term?</p> <p>22 MR. BALLANTYNE: You know, I haven't</p> <p>23 considered that. No. I would consider two five-year</p> <p>24 terms.</p> <p>25 MEMBER DEREGO: Thank you.</p>

7 (Pages 25 to 28)

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1 CHAIR STONE: Commissioners, any further  
2 clarification?  
3 (Silence.)  
4 CHAIR STONE: Okay. Thank you very much for  
5 your testimony. Any other member of the public that  
6 would like to give oral testimony before we go to the  
7 next round?  
8 MR. RAINER: Andrew Rainer.  
9 CHAIR STONE: I'm sorry. What is your name?  
10 MR. RAINER: Andrew Rainer.  
11 CHAIR STONE: Thank you, Andrew.  
12 MR. RAINER: Unlike the other gentleman behind  
13 me, I'm not qualified to speak on behalf of Hana. I've  
14 been here less than four years. And I'm here a little  
15 more as a mirror than a speaker. I'm editor of the  
16 local newspaper, Hanaside News. And we have only four  
17 editions a year. Next one will probably go to press  
18 about middle of August. I want to know if it is still  
19 possible to submit testimony or thoughts to you after  
20 that date, therefore we can put something in the paper?  
21 What is your procedure from here on?  
22 CHAIR STONE: At the moment, all testimony is  
23 welcome, whether it be -- all testimony is welcome,  
24 whether it be written, oral. In our agenda tonight, we  
25 have listed all the ways that the public can communicate

1 with us. All testimony will be brought forward and  
2 discussed in the Charter Commission. At a certain  
3 point, we're going to have what we call, basically, a  
4 cutoff point where we're going to have to start putting  
5 our own proposals together based on the testimony. But  
6 that will be closer towards Christmastime.  
7 MR. RAINER: So that timetable will encompass  
8 further testimony after --  
9 CHAIR STONE: Our plan is, once we take all  
10 the public input and all of the County input, we will  
11 put proposals together, those proposals will become  
12 official amendment proposals, which then we'll go back  
13 to the community. And the community will have an  
14 opportunity again, as we're doing now, to discuss the  
15 proposals that the Charter Commission is about to put  
16 forward. So there will be another round of public  
17 input. But before that point, following August, it  
18 would be fantastic if we could get more public input.  
19 So, yes, we welcome as much input as we can get.  
20 MR. RAINER: As you see, our turnout is a  
21 little on the thin side today. And it may be possible  
22 to get some more voices heard.  
23 CHAIR STONE: Actually, it's probably one of  
24 our better turnouts. So I think what we're seeing here  
25 is people don't understand what the proposals are yet

1 and what impacts that will be on their own lives. Once  
2 the proposals start to hit the table, I'm sure we'll  
3 have a lot more input. But this is the time when we  
4 really do need the input. So thank you for coming.  
5 MR. RAINER: Just for whatever it is worth, I  
6 will back everything Ward Mardfin has proposed. I come  
7 from a political family back in England. I have seen a  
8 lot of attempts at constitutional change of one sort or  
9 another on all levels. There are nearly always a row of  
10 unintended consequences coming out of them. The  
11 principle must be, if it ain't broke, don't fix it.  
12 Thank you.  
13 CHAIR STONE: Thank you very much for your  
14 time. Commissioners, any questions or clarifications on  
15 that testimony? Commissioner DeLeon.  
16 MEMBER DELEON: Now, we would be happy to try  
17 to get some information to you, if you want to start a  
18 dialogue in the paper, or some other way of  
19 communicating.  
20 And for the record, I personally believe our  
21 elective system is broken. So that's why I'm on this  
22 board, to try to see what we can do about it.  
23 MR. RAINER: Accepted.  
24 CHAIR STONE: Thank you very much.  
25 Commissioners, any further clarification?

1 (Silence.)  
2 CHAIR STONE: No. Okay. Great. Again, I  
3 will put the question out there to anybody in the public  
4 if they would like to come forward before we go to the  
5 next round of testifying. No?  
6 (Silence.)  
7 CHAIR STONE: Okay. With that said, John, I  
8 believe, you were the first person that wanted to come  
9 back.  
10 MR. BLUMER-BUELL: Can you hear me?  
11 CHAIR STONE: Yes.  
12 MR. BLUMER-BUELL: I had a question from Judge  
13 Baxa on Question Number 3, and so I am going to start  
14 with 4 on my list.  
15 Hana Planning Commission. The Hana Advisory  
16 Committee to the Maui Planning Commission recently  
17 recommended that you take a look, hard look, at this and  
18 discuss it. This is an idea with self-determination  
19 benefits for the residents of Hana District.  
20 The Hana Advisory Committee to the Maui  
21 Planning Commission was established around 1988, after a  
22 controversial land use dispute. That was a proposal  
23 brought forward by Thelma Santos -- Velma Santos.  
24 Pardon me. It is time for these decisions to be made by  
25 community members of the East Maui District. A Hana

<p style="text-align: right;">Page 33</p> <p>1 Planning Commission, effectively administered, should be</p> <p>2 cost-effective for all taxpayers.</p> <p>3 And I think Ward disagrees with me, but we can</p> <p>4 -- I can cite you a long list of successes and failures</p> <p>5 of the Hana Advisory Committee. And I think it's</p> <p>6 important for this community to realize the importance</p> <p>7 of standing up in Hana.</p> <p>8 I don't buy the argument that you get two</p> <p>9 bites at the apple, one in Hana and one at the Planning</p> <p>10 Commission, if we are just having an advisory committee.</p> <p>11 We need to get it right in Hana. And the burden is on</p> <p>12 this committee. And I think we'll get more people</p> <p>13 showing up for participation.</p> <p>14 The fifth one is the June 13th, 2011 proposal</p> <p>15 by Commissioner Dave DeLeon, create single-member</p> <p>16 districts, and Lanai and Molokai island boards. I think</p> <p>17 the idea of Lanai and Molokai having boards is</p> <p>18 interesting, but I would definitely want to see Hana</p> <p>19 included in that idea. I do feel like we're an island</p> <p>20 out here. So I would encourage you to look at that and</p> <p>21 really flesh it out. I'd be curious to see if Dave can</p> <p>22 flesh it out more.</p> <p>23 I would like to know exactly what Dave's</p> <p>24 talking about with creating single-member districts. I</p> <p>25 would like that to be clear exactly what Dave's talking</p>	<p style="text-align: right;">Page 35</p> <p>1 the districts individually, in that district only. One</p> <p>2 man, one vote concept. The island boards being based on</p> <p>3 the concept trying to move from the idea of a township.</p> <p>4 We don't really have townships in Hawaii. The smallest</p> <p>5 unit of government tends to be in a county government.</p> <p>6 Trying to bring it down to a lower level, because we do</p> <p>7 have these isolated communities, and trying to provide</p> <p>8 -- the reason why I did Lanai and Molokai is because I</p> <p>9 think they have a unique problem different than Hana's.</p> <p>10 Hana's history, elective history, has been one of</p> <p>11 competition, wins, losses, and not sticking to the seat</p> <p>12 because they got other pressures. It's not been the</p> <p>13 same on Lanai and Molokai. Goro Hokama served on the</p> <p>14 seat on Lanai for 40 years, often losing his district.</p> <p>15 He was imposed upon the people of Lanai. His son now</p> <p>16 holds that seat the second term around, the same thing.</p> <p>17 The guy -- the current councilmember from Molokai has</p> <p>18 not had a challenger in four elections. To me, that's a</p> <p>19 broken system. We have people who are running our</p> <p>20 government or serving on a board that have the oversight</p> <p>21 of our government who were, basically, not elected.</p> <p>22 MR. BLUMER-BUELL: Mr. Chair, may I ask Dave</p> <p>23 one question?</p> <p>24 CHAIR STONE: Of course.</p> <p>25 MR. BLUMER-BUELL: Dave, how many districts</p>
<p style="text-align: right;">Page 34</p> <p>1 about in terms of number of seats and where the powers</p> <p>2 are going to be divided up. And I do -- I would really</p> <p>3 like to see all these models at some point.</p> <p>4 I'll see if I can dig up from my files -- I've</p> <p>5 participated in several of these charter commissions.</p> <p>6 I've saved "The Maui News" from the one probably 20</p> <p>7 years ago. And so there's been a lot of ideas come</p> <p>8 forward. I really would like to see you come forward</p> <p>9 with some idea to give the voters a choice for district</p> <p>10 voting.</p> <p>11 The ethics, I think that's a really very clear</p> <p>12 statement, if you read that.</p> <p>13 MS. KAHUHU: Three minutes.</p> <p>14 MR. BLUMER-BUELL: Thank you.</p> <p>15 CHAIR STONE: Thank you for your testimony.</p> <p>16 Also, I want to say thank you for writing it because</p> <p>17 this goes into our public records. And when our analyst</p> <p>18 reviews the proposals, we have it written down. So it's</p> <p>19 very good to have it written as well as oral.</p> <p>20 Commissioners, any questions for</p> <p>21 clarification? I'm sure Commissioner DeLeon has</p> <p>22 something to say there.</p> <p>23 MEMBER DELEON: Hi, John. In reply, I'm sorry</p> <p>24 I wasn't clear. What I meant was single-member</p> <p>25 equally-proportioned districts voted on by the people of</p>	<p style="text-align: right;">Page 36</p> <p>1 are you talking about? I mean, I've heard proposals</p> <p>2 for --</p> <p>3 MEMBER DELEON: Nine.</p> <p>4 MR. BLUMER-BUELL: What's that?</p> <p>5 MEMBER DELEON: Nine.</p> <p>6 MR. BLUMER-BUELL: Nine, okay.</p> <p>7 MEMBER DELEON: So it would be districts of</p> <p>8 about 16,000 to 17,000 each.</p> <p>9 CHAIR STONE: Commissioners, any further</p> <p>10 questions?</p> <p>11 MEMBER OKAMOTO: Yes.</p> <p>12 CHAIR STONE: Yes, Commissioner.</p> <p>13 MEMBER OKAMOTO: Under "Ethics," because I</p> <p>14 think that that is, obviously, an issue that we need to</p> <p>15 look at, do you have specific language that you feel</p> <p>16 should be put in? Obviously, it is ambiguous to say</p> <p>17 right and wrong.</p> <p>18 MR. BLUMER-BUELL: I think I put in my hastily</p> <p>19 written testimony that telling right from wrong is</p> <p>20 subjective. So I think we need corporate counsel's best</p> <p>21 work on this one. For me, my testimony is a</p> <p>22 conversation. I welcome criticism, calls, suggestions,</p> <p>23 so we can begin to have a dialogue here with the entire</p> <p>24 Maui County community. And, you know -- you know, it's</p> <p>25 obvious that people have different opinions. And,</p>

1 hopefully, we can come around to agreeing on things. I  
 2 think what is important -- and I'll give an  
 3 illustration, without naming anyone -- is that there was  
 4 an elected representative that lied in the County  
 5 Council here regarding funding that impacted Hana, about  
 6 \$100,000. And I raised the issue. It was all on tape.  
 7 The transcript was there. And when the Corp Counsel  
 8 called me, they said, well, what part of the Ethics  
 9 Commission -- what part of the Ethics Code are you  
 10 talking about. I said, well, do you know -- I mean, I  
 11 wasn't being sarcastic. I said, do you know what ethics  
 12 is.

13 And my definition at the time was the ability  
 14 to tell right from wrong and tell the truth. And some  
 15 people may not be able to tell right from wrong, that's  
 16 subjective. I think we need to have elected officials  
 17 and people serving the County required to not lie. And  
 18 I think there should be big penalties for people that  
 19 get caught in that kind of thing.

20 So it's not really aimed at something. It  
 21 would be a minor revision to the ethics part of the  
 22 County Charter. It's just that one issue. And I think  
 23 it could help clarify a number of issues.

24 CHAIR STONE: Thank you. Commissioner  
 25 Sugimura.

1 MEMBER SUGIMURA: Hi, John. My question is on  
 2 your last item, which you probably didn't get to cover.  
 3 What you're asking for -- please clarify if I'm wrong,  
 4 but what you're asking is for any nominee or anybody who  
 5 said they wanted to volunteer for any boards or  
 6 commission, that entire list should go down to Council  
 7 for them to review. Just as kind of a clarification.  
 8 But according to what the Charter says, is that the  
 9 mayor will send down a list of those nominees and then  
 10 the Council will choose from that list. So why would  
 11 they get the full volunteer, you're calling it list,  
 12 when it wouldn't really impact the decision on the  
 13 Council?

14 MR. BLUMER-BUELL: Just based on my  
 15 observation of the Council for a long time, and  
 16 especially in recent years. There's been people that  
 17 have volunteered for boards and commissions that have  
 18 come forward during the process that says, well, I  
 19 volunteered, and the Council goes, well, we don't know  
 20 that you're a volunteer. So my idea is not to politicize  
 21 this; it's to make the best qualified people available  
 22 to serve the people of Maui. This is not a political  
 23 idea.

24 The County Council, I think, pretty routinely  
 25 approves people. If they can see that there is somebody

1 that has great expertise that's on the list, they may  
 2 say -- they should be working in collaboration with the  
 3 mayor, they should discuss it with the mayor and,  
 4 hopefully, get the best people in each of the slots.  
 5 It's not a big controversy. I just think it would be a  
 6 -- just make things work better.

7 And I know a few people that have volunteered  
 8 for boards that were very qualified. And nobody --  
 9 their names never came up and nobody ever knew that they  
 10 volunteered. So that's all.

11 MEMBER SUGIMURA: Thank you.

12 MR. BLUMER-BUELL: Chair, may I make one last  
 13 suggestion to you?

14 CHAIR STONE: Sure, please.

15 MR. BLUMER-BUELL: And that is -- and I say  
 16 this with a little humor to Susan Moikeha -- please  
 17 start your deliberations sooner rather than later.

18 CHAIR STONE: That's great advice.

19 MR. BLUMER-BUELL: No. We needed to do it a  
 20 lot sooner with the General Plan Advisory Committee.  
 21 And I think it would be wise to formulate -- have Corp  
 22 Counsel help you formulate the steps starting now. If  
 23 you see an idea that's good, have 'em work on it. So  
 24 then when it comes up, it's not going to be last minute.  
 25 And like the GPAC, we didn't have the time, even with an

1 extension.

2 CHAIR STONE: Thank you. It's much  
 3 appreciated. And that's understood. Thank you very  
 4 much. Again, any further questions, please?  
 5 Commissioner DeLeon.

6 MEMBER DELEON: John, I don't want to be  
 7 argumentative; I just want to give you information. As  
 8 you know, I used to serve as the appointments officer  
 9 for Mayor Lingle and Mayor Arakawa. And in that  
 10 capacity, I did have communications with Corp Counsel  
 11 about that list, the list that's closed as a matter of  
 12 public record because it acts like a personnel list.  
 13 And so the fact that somebody submits their name and  
 14 they're not selected could be seen as a pejorative  
 15 statement about the person, you know, the fact that they  
 16 weren't picked. Some people might say, well, I can see  
 17 you applied, but, boy, they don't want you. So that was  
 18 the rationale.

19 There's also a concern that, under our system  
 20 of government, going back to the County fathers, it's --  
 21 the executive chooses the person and the -- and the  
 22 legislative reviews that choice and makes sure it's  
 23 adequate. And that is their role. Their role is not to  
 24 pick. If you give them that list, then they'll be  
 25 picking, guaranteed.

<p style="text-align: right;">Page 41</p> <p>1 MR. BLUMER-BUELL: I respect the protocol that  2 you worked within. And this is just another issue I've  3 brought forward. I think it's worth discussing.  4 You know, I understand Dave's role with the  5 Lingle and Arakawa administrations. And I think he did  6 a great job. I respect what he said, but there is  7 another item to discuss. Thank you.  8 CHAIR STONE: Thank you. Commissioners, any  9 further questions? Commissioner Moikeha.  10 MEMBER MOIKEHA: John, thank you for coming  11 tonight. And my problem is your recommendation to  12 include a Planning Commission for the area of Hana. Is  13 there something within the Hana Advisory Committee,  14 whether it's how the process of selection is or anything  15 else, that prevents it from maybe being more effective,  16 and, hence, you wouldn't need a full-on planning  17 commission?  18 MR. BLUMER-BUELL: This is a bit of criticism.  19 And it's not aimed at anyone. I recently -- I was --  20 personally, I was asked by Mayor Tavares, Hannibal  21 Tavares -- I was on the first Hana Advisory Committee,  22 and served on that with, you know, people like Harry  23 Hasegawa and Bob Carroll and Lydia (inaudible) from  24 Keanae. I was also asked to serve a second term during  25 the Lingle Administration. Then I recently got a call</p>	<p style="text-align: right;">Page 43</p> <p>1 people that volunteer for the position don't show up for  2 three meetings in a row, let's say unexcused absences,  3 they need to be replaced. So no personal criticism, but  4 there's people that volunteered and then didn't show up  5 for -- after their first meeting they attended. So what  6 you got several times was you had -- you did not even  7 have a quorum for a couple meetings. I wasn't here, but  8 I came to the meetings. There was three people. So  9 there wasn't even a quorum. And that committee was  10 seven members. You need four votes to move anything.  11 So, you know, it's a -- it's a difficult situation. I  12 do think the community will -- so I hope that answers  13 your question. I feel like --  14 MEMBER MOIKEHA: Yeah. Thank you. I'm just  15 looking at this from the perspective of a little bit of  16 my experience on the Planning Commission and often  17 receiving recommendations from the Hana Advisory  18 Committee. And I don't know if that was just during my  19 term of 2001 to 2006, but, often, we would defer heavily  20 to the Hana representative. And often -- I can't even  21 remember any time we didn't follow a recommendation by  22 the Advisory Committee.  23 It kind of sounds like there's some issues  24 here that could be resolved administratively or within  25 the department. Especially getting reports on time, and</p>
<p style="text-align: right;">Page 42</p> <p>1 from Arakawa Administration to ask me if I would serve.  2 I said, sure.  3 But the problem that I have seen over the last  4 several years is the Planning Department is not giving  5 the time that they need to spend in Hana. They need to  6 have the reports ready and we need to have them a week  7 or two in advance. And so it really needs to be, you  8 know, better -- better support and, you know -- and  9 that's so important.  10 And this is just an example: It's true, some  11 of the -- it was on this short-term rental bill. And it  12 was the proposal the Planning Department put together, a  13 very good, probably, 50-page report. Some of our  14 members didn't get it until the day of the hearing. And  15 I was lucky enough to get it three days before the  16 hearing. But, you know, it's -- and we were told that,  17 well, you've got to make a decision tonight because the  18 Planning Commission's going to hear this next Tuesday.  19 So our option was to say we're not going to -- you know,  20 we're not going to take a position, in which case  21 nothing is said from Hana. We had some flexibility in  22 people's positions because I felt it was worth at least  23 getting the statement out to the Planning Commission.  24 The other thing, final thing, is that there  25 needs to be some standards in place so that if the</p>	<p style="text-align: right;">Page 44</p> <p>1 trying to get the best people you can that can commit to  2 the time.  3 Just as a quick question: Do you feel that  4 having an advisory committee here, and based on previous  5 experiences and even to date, that they are truly  6 representing the voice of all of the people of this  7 area?  8 MR. BLUMER-BUELL: It's hard for anyone to say  9 they represent all the voices. But when I sit on the  10 Hana Advisory Committee, I depend very heavily on the  11 Hana Community Plan, which was passed in 1994, which  12 included several, maybe two dozen, members from the Hana  13 community. It included going through the Hana Advisory  14 Committee at that time, the Planning Commission at that  15 time and through the County Council at that time. So  16 the Hana Community Plan is a -- I'd say, generally, is a  17 very good plan.  18 Unfortunately, there's been a failure to  19 implement it in many important areas. So this is, I  20 think, probably a general concern island-wide. And so I  21 think the community -- you know, my experience is that  22 if you really put the responsibility on the community,  23 the community will rise to the occasion. And this is --  24 I mean, I look at myself as somebody that's  25 participating in our democracy for a long time. My</p>

1 shortfall is that I don't have time to talk with the  
2 kids enough, you know. So it has to be more  
3 generational, so people get used to it. Kids in Hana  
4 don't grow up knowing community plans, and they would  
5 rather go fishing or surfing than go to a meeting. Who  
6 can blame 'em?

7 MEMBER MOIKEHA: Thank you.

8 CHAIR STONE: Commissioners, any further  
9 questions?

10 MEMBER OKAMOTO: I have a loud voice. What is  
11 the difference in the advisory committee and planning?  
12 Are there things that the advisory committee covers that  
13 would not be covered in a planning commission?

14 MR. BLUMER-BUELL: The Planning Commission --  
15 and we have our former Planning Chair here -- they refer  
16 items to the Hana Advisory Committee for our advice, for  
17 our opinion. And the Planning Commission oftentimes  
18 will refer the issue to Hana for the public hearing.

19 MEMBER OKAMOTO: But are there any additional  
20 items that, if you became a Planning Commission, would  
21 not cover that currently the advisory committee does?

22 MR. BLUMER-BUELL: I think the big difference  
23 -- and I stand to be corrected -- is that the final  
24 decisions in many of these issues would be final in  
25 Hana. And I think that would make -- that would make a

1 I don't have anything in writing. I challenged a few of  
2 my Hawaiian friends that is part of the sovereignty  
3 movements to think about this. And that is, is there  
4 some way that we can put in the Charter an  
5 acknowledgment of the actual history of the Hawaiian  
6 people? We had a good resolution passed, I think it was  
7 last year. Bill may have been on the Council. And  
8 it -- basically, Sol Kaho'ohalahala had put the  
9 resolution together, working with the reinstated nation  
10 of Hawaii folks. And so it was -- it was nothing  
11 controversial; it was a matter of fact reiteration of  
12 what has happened over the last 100 years. There was  
13 nothing actually anybody disagreed with. So can we  
14 somehow find a place to acknowledge the -- the Kanaka  
15 Maoli in the County Charter and -- and, really, look to  
16 the future where I believe there will be  
17 self-determination for Hawaiian people in some form. Is  
18 there some way you can craft this so that it becomes  
19 really a statement of aloha, looking to the future,  
20 acknowledging the past? It's a big challenge. And I --  
21 I put that challenge to some Hawaiian people.

22 Thank you.

23 CHAIR STONE: Commissioners, any further  
24 questions or clarification?

25 (Silence.)

1 big difference in participation of the committee. If  
2 the issue's going to be decided here, I think the  
3 community will understand that. So that's a big  
4 difference.

5 I mean, I agree with Ward that we do have the  
6 opportunity for public hearing and advisory opinion in  
7 Hana than in the Planning Commission. I would  
8 personally rather see the final decisions, right or  
9 wrong, being in Hana and live with the results as a  
10 community. And have people, you know, be able to come  
11 to the hearings in Hana.

12 I think, you know, another shortfall -- the  
13 whole thing with Susan -- and this is where all the  
14 committee organizations, all of them, and the Council,  
15 and so forth, need to be better at getting this out to  
16 the community. With the short-term rental bill, I went  
17 to the Hana Business Council meeting the week after that  
18 and talked with a number of people that were concerned,  
19 that didn't even know there had been a public hearing on  
20 that subject the previous week. So that's something the  
21 community has to improve. And I'm optimistic. I feel  
22 like if the community doesn't pull it together, then  
23 we're going to get rolled over.

24 And I would like to make one final comment,  
25 Chair, if I could. This is a challenge to all of you.

1 CHAIR STONE: No. Thank you very much for  
2 your testimony tonight. Thank you.

3 MR. BLUMER-BUELL: Thank you.

4 CHAIR STONE: Ward, you were next on the list,  
5 please.

6 MR. MARDFIN: Yeah. I'd like to talk a little  
7 bit about the Hana Advisory Committee that he  
8 represented. I'm speaking as an individual, but I've  
9 finished about three and a half years on the Maui  
10 Planning Commission. And my term ends next March. And  
11 actually, I'm kind of hoping that I could get on the  
12 Hana Advisory Committee. And I would like it not be to  
13 a Hana planning commission. I think Hana has the best  
14 of all worlds. We -- all the hearings get assigned to  
15 Hana, they get heard here, they get local testimony, if  
16 people are interested, they can come. The Advisory  
17 Committee makes its recommendations to the Maui Planning  
18 Commission. If, for some reason, either a small body  
19 makes bad decisions, or somehow it's not representative,  
20 people have a second chance to go to the Planning  
21 Commission and argue their case. I think that's a check  
22 and a balance that is wonderful. Yes, it slows things  
23 down a little bit, but that check and balance is a  
24 wonderful feature. If I lived in especially unique  
25 communities like Paia, Lahaina, Upcountry, I would be

<p style="text-align: right;">Page 49</p> <p>1 screaming at you guys to make a Paia advisory committee,  2 a Lahaina advisory committee. I believe it works very  3 well.  4 There are some concerns, but, as the  5 Commissioners said, the Planning Commission almost  6 always follows the recommendations with some  7 modification. I've had -- we need -- the Planning  8 Commission meets 26 times, 25 times a year. We get a  9 lot of experience. And some of the things that pass  10 through the Hana Advisory Committee, we have somewhat  11 modified a little bit at the Planning Commission level  12 because we have a larger experience base. We've seen a  13 lot more projects coming down the way. And it lets us  14 add some things to the mix. But it's still following  15 essentially what Hana thinks. So I really love the way  16 it is now.  17 By the way, the Hana Advisory Committee is not  18 in the Charter. It was created by ordinance. So you  19 don't really have to deal with it at all if you don't  20 choose.  21 I'd like to mention a couple things about --  22 back to my composition of election. I believe it was  23 Flo Wiger, Commissioner Wiger, who suggested that --  24 maybe it wasn't -- one of you suggested that you could  25 hold the primary locally. That was Commissioner</p>	<p style="text-align: right;">Page 51</p> <p>1 isolated as Molokai and Lanai. And I think it's really  2 important that we have somebody from here. The only way  3 to ensure that one person is from here would be to have  4 a 68-member council. And I don't -- nobody wants that.  5 So I really think the way -- if it ain't broke, don't  6 try to fix it. I think this is not broke from our point  7 of view.  8 I do understand how other districts feel that  9 it is broken in the fact that they don't get the person  10 that they particularly want. But I don't know any way  11 to fix it without going back to the bad old days when  12 Hana had no representation.  13 Thank you.  14 CHAIR STONE: Commissioners? Commissioner  15 DeLeon.  16 MEMBER DELEON: Did you have a chance to look  17 at the thing I gave you earlier?  18 MR. MARDFIN: Just briefly.  19 MEMBER DELEON: Basically, what it does is  20 single-member districts, voted by district, which means  21 Hana probably would not have a councilmember.  22 MR. MARDFIN: That's correct.  23 MEMBER DELEON: In that scenario, we have  24 Lanai and Molokai, but it can be like Hana -- well,  25 maybe from Kanae to Kahikinui. And with the elected --</p>
<p style="text-align: right;">Page 50</p> <p>1 Okamoto. I don't know if that's legal. You have to  2 check with the Corp Counsel on that.  3 Commissioner DeRego's concern was I'm not  4 going to bump into people if they're out in Hana and if  5 I'm in Kihei. That's a possibility, but my experience  6 with both Councilman Medeiros and Councilman Carroll is  7 they spend an awful lot of time in Central Maui.  8 Probably more than they want to. They are over there a  9 lot. I don't think it's terribly difficult for somebody  10 from the rest of --  11 MS. KAHUHU: Three minutes.  12 CHAIR STONE: Okay. Thank you very much.  13 Commissioners, questions, clarifications? Also,  14 clarifications on any of the written testimony?  15 Commissioner DeLeon.  16 MEMBER DELEON: Ward, can you finish your  17 thought?  18 MR. MARDFIN: Thank you very much. Yeah. I  19 think the councilmen spend a great deal of time over  20 there. I think access for the rest of Maui Island  21 Council is not a problem. Potentially Molokai and Lanai  22 we have some problems, but they have problems with the  23 other eight, anyway. It seems to me that having -- as  24 Neal said earlier, having a councilman from here really  25 helps the communication problem. We're almost as</p>	<p style="text-align: right;">Page 52</p> <p>1 elected bodies that represent these communities --  2 elected by the communities, that would -- could handle  3 land use up to and including zoning, and, also,  4 represent the community at all three levels of  5 government in terms of being a spokesperson for your  6 community.  7 MR. MARDFIN: That may help a little bit. I  8 don't think that solves the fundamental problem. I used  9 to -- when I lived on Oahu, I was on, I think, the  10 second round of neighborhood boards. And it was  11 extremely frustrating because we were only advisory.  12 And --  13 MEMBER DELEON: I'm not talking about only  14 advisory; I'm talking significant power.  15 MR. MARDFIN: I think there a lot of things  16 that really need -- I like the idea of at-large seats.  17 I think that's a very strong and good concept that every  18 councilman has to represent the entire county. If you  19 go to single-member districts, you lose it. There will  20 be the tendency -- people try to fight it, but there  21 will be the inevitable tendency to campaign just in your  22 area, which will be cheaper, and make a lot of change,  23 but they will not -- there will be tendency to look out  24 after my district first and the rest of the island  25 second. And they'll have to compromise some to get the</p>

13 (Pages 49 to 52)

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1 five votes. So there will be some log rolling to make  
2 the deals, to get the five votes.

3 The way it is now, where every member is  
4 elected county-wide means that every councilman has to  
5 look at the island -- at the county as a whole. And I  
6 think that is a huge plus. I still think that the nine  
7 votes that each person has gets us to think about all  
8 the councilmen, not just the one from our district. And  
9 when we have an issue we want to deal with, we have --  
10 we can honestly say we're constituents of -- constituent  
11 of every single councilmember.

12 So I really think it's a good thing, but I do  
13 understand the frustration, certainly.

14 MEMBER DELEON: Thank you.

15 CHAIR STONE: Commissioners, any further  
16 questions? Clarification?

17 (Silence.)

18 CHAIR STONE: Thank you very much for your  
19 testimony. Lisa, what is the time?

20 MS. KAHUHU: 7:40.

21 CHAIR STONE: 7:40, okay. Commissioners, just  
22 so you know, we added to our agenda a period where we  
23 can discuss the public testimony that we received if we  
24 want to make use of all of our time. So let's take a  
25 quick break right now, come back in, say, 10 minutes.

1 And before we take that break, actually, without  
2 objection, Chair will accept and file all public  
3 communication into record. Also, without objection,  
4 we'll close oral testimony at this time.

5 ...END PUBLIC TESTIMONY...

6 CHAIR STONE: So let's take a break and be  
7 back. Thank you very much.

8 By the way, the public is welcome to stay  
9 during this discussion period. It's open to the public.  
10 (Recess, 7:41 p.m. to 7:54 p.m.)

11 CHAIR STONE: Commissioners, we'll bring the  
12 meeting back to order. At this period, we're going to  
13 discuss this discussion based on public testimony that  
14 we received tonight. And, again, oral testimony is  
15 closed, so refrain from calling on members of the  
16 public, please, to clarify. All right?

17 So with that, let's go ahead and open this  
18 testimony up. I'm going to let it go as long as we have  
19 something relevant to discuss on tonight's topics. All  
20 right. Thank you very much. So, Commissioners, please,  
21 anybody want to start discussion?

22 MEMBER DEREBO: I want to start with the  
23 article on ethics.

24 CHAIR STONE: Frank, would you like the  
25 microphone?

1 MEMBER DEREBO: Oh, yeah. The earlier  
2 testimony got my mind going on the whole issue of the  
3 Code of Ethics as it exists in the Charter. I believe  
4 that there has to be a way of clarifying what the powers  
5 of the Ethics Commission are. I think there needs to be  
6 some way of indemnifying not only these commission  
7 members, but, also, all members of commissions in some  
8 way in the Charter, that it's not only by County Code.

9 And maybe this is something that Corporation  
10 Counsel can clarify, but it seems to me that whole issue  
11 became an elephant in the room about the relationship  
12 between citizen volunteers and what they place  
13 themselves in by volunteering and then taking up very,  
14 very sensitive issues, you know. And, you know, lawyers  
15 started entering in, there were threats of -- you know,  
16 the theme was you're overturning an election, there was  
17 threats of suits, you know.

18 You know, we watch Akaku, it becomes like  
19 better than bigtime wrestling. But, you know, it seemed  
20 to me that that's a very serious issue, not only in  
21 regards to the Ethics Commission, but other commissions  
22 as well. But especially defining what are the powers of  
23 the Ethics Commission, what can it do, what can it not  
24 do and what is the responsibility of the County through  
25 its Charter to protect, you know, literally, citizen

1 volunteers who give of their time in order to make our  
2 County run better, to support its functions and to make  
3 sure that democracy is alive and well within the County.

4 So the testimony actually did get other kinds  
5 of issues going in my mind about specific issues that  
6 have happened over time in the County that we've  
7 witnessed.

8 So that's my opinion on that.

9 CHAIR STONE: Commissioners, discussion on  
10 that issue?

11 MEMBER DELEON: Personally, I'm not as shocked  
12 as John that politicians don't always tell the truth.  
13 It's not really -- doesn't really take my socks off.  
14 But the point you're raising about the Nishiki case is  
15 -- I don't mind saying what it is -- was that, to me, as  
16 an observer, what I noticed was in the Ethics Board --  
17 I've seen this before -- where a complaint is made  
18 against a politician, the politician comes with an  
19 attorney -- and in the case of Wayne Nishiki, brought in  
20 two pretty qualified attorneys, one Corporation Counsel  
21 and another real heavy hitter -- who were very  
22 aggressive with the board. And there was really nobody  
23 arguing the other side of the picture.

24 You have Corporation Counsel -- in this case  
25 it was brought in from the Big Island, I believe. In

1 the beginning, it was the junior Corporation Counsel --  
2 and that person's position is to represent the County,  
3 the function, the process, to make sure everything is  
4 hunky-dory. It is not to bring the case.

5 So you have a couple of really strong  
6 attorneys coming at a board. And the board are not  
7 attorneys; they're lay people. Generally speaking, you  
8 don't want attorneys on your Board of Ethics, anyway.  
9 That just makes for trouble. So they -- they're sitting  
10 there and they're getting pounded on by these attorneys  
11 and there's no counterpoint. I mean, unless the public  
12 goes out and hires an attorney to bring it in, to bring  
13 the case, there is no counterpoint. And so that seems  
14 off balance. So it's really hard.

15 In that case, to me, it was abundantly clear  
16 that it was a breach of the process. I mean, very clear  
17 breach of the process. A deliberate breach of the  
18 process. And he got to walk away from it because he has  
19 these big attorneys to really drag them through it. So,  
20 yeah, I think that's a real indication of something  
21 broken.

22 CHAIR STONE: Commissioners, further  
23 discussion on that topic?

24 MEMBER DEREBO: I guess it begs the question,  
25 what can we do. And maybe when we get our person,

1 whoever that is, we can start investigating language or  
2 pieces of the Charter that either are about boards or  
3 commissions or maybe the individual Ethics Commission  
4 itself in terms of strengthening language about that. I  
5 guess my question becomes what next, you know. We  
6 recognize there's a problem, now we need some sort of  
7 solution to it being broken.

8 MEMBER DELEON: Mr. Chair?

9 CHAIR STONE: Yes.

10 MEMBER DELEON: In reply to that, I think the  
11 first step is to hear from the Board of Ethics. And,  
12 hopefully, they're going to come up with one. I'm not  
13 going out and seeding anything, either. It's just we'll  
14 have to wait and see what they come up with. But,  
15 hopefully, they see this themselves.

16 CHAIR STONE: Very good.

17 MEMBER DEREBO: Can I ask a question?

18 CHAIR STONE: Sure.

19 MEMBER DEREBO: If they don't come up with  
20 something, would it be worth inviting them in and maybe  
21 doing that? I know we're having some difficulty even on  
22 the Cost of Government, because we only meet once a  
23 month, in terms of sort of organizing ourselves and  
24 getting, you know, together for Charter Commission  
25 recommendations. So it might be next month or the month

1 after that we're actually submitting them, once we've  
2 kind of done the whole vetting process. But, you know,  
3 knowing the schedule and how it works and only meeting  
4 once a month, it might be worth actually sending out a  
5 particular invitation to this group.

6 CHAIR STONE: It sounds like we should  
7 definitely do that. So we'll put that -- we'll see if  
8 we can't get -- just out of curiosity, Frank, who is the  
9 chairman of that group?

10 MEMBER DEREBO: Who? I don't remember right  
11 now.

12 CHAIR STONE: We'll figure it out. Yes.

13 MEMBER MOIKEHA: I think it was -- Alan  
14 Kaufman was the chair at the time. I don't think he's  
15 the chair. I think he's off the commission now.

16 CHAIR STONE: I think it would be beneficial  
17 for all of us just to understand the process and also  
18 hear why these issues were difficult to deal with. So,  
19 Lisa, we're going to try to get the Chair of the Board  
20 of Ethics in for a discussion here. Give that a shot.

21 MEMBER DEREBO: Now, some of what he has to  
22 say is going to be generalities because a lot of what  
23 was worked out was worked out in Executive Session. So  
24 we're not going to be privy to any of that information,  
25 but he might be able to give us some insight in terms of

1 what he thinks is broken.

2 CHAIR STONE: Anything further on that issue?  
3 Cliff?

4 MS. KAHUHU: Chair, can I get confirmation,  
5 please? Are you going to invite him via letter?

6 CHAIR STONE: Yeah. I'll draft a letter and  
7 put it forward to see if he can come down. And the  
8 same, I think, informational discussion on how the Board  
9 of Ethics works, so we have an understanding. And at  
10 that time, I think the Commissioners can present  
11 questions of what about this case, why did that fall  
12 apart. So then we can maybe come up with some good  
13 ideas on how to make it a better system.

14 Okay. Moving on to other topics.

15 MEMBER WIGER: Oh.

16 CHAIR STONE: I'm sorry.

17 MEMBER WIGER: Just wanting to really, really  
18 support the idea that we invite them. I think the fact  
19 that this has come up in this meeting, and it's come up  
20 through public testimony, I think there's a  
21 responsibility on our part as members of the Charter  
22 Commission to respond appropriately, given public  
23 testimony, saying that this is something that has really  
24 risen to the level of concern. And I think our  
25 follow-through on that is extremely important. So I

1 really support bringing them in.  
 2 CHAIR STONE: Noted. Thank you. Any further  
 3 discussion?  
 4 MEMBER SUGIMURA: I just want clarification.  
 5 So what you're asking us to do --  
 6 CHAIR STONE: Microphone, if you need it.  
 7 MEMBER SUGIMURA: Okay. So, basically, what  
 8 you're asking to us do is to take all the testimony we  
 9 heard tonight and pick and choose which ones we want to  
 10 put on our agenda for later? Or --  
 11 CHAIR STONE: No. This is just an open  
 12 discussion. If some good ideas come up -- for example,  
 13 like it would be great to hear from the Board of Ethics,  
 14 so that's a good example, I guess, we can discuss at our  
 15 next meeting. So all we're trying to do, not trying to  
 16 create agenda items, just submitting a great idea. So  
 17 just topics -- as this is our first time we're doing  
 18 this, open discussion on anything we heard this evening.  
 19 MEMBER SUGIMURA: I just want to say in  
 20 general that I'm really glad to hear Hana people come  
 21 out and tell us what they feel. Because it's so easy  
 22 for the other side of the island to think that we know  
 23 what they think. And the same thing happens with  
 24 Oahu-centric versus Maui County. And I'm glad to hear  
 25 this. And I look forward, really, to Molokai and Lanai,

1 too --  
 2 CHAIR STONE: Great.  
 3 MEMBER SUGIMURA: -- as relates to their  
 4 issues.  
 5 CHAIR STONE: Thank you. Commissioners, any  
 6 discussion on any other topics?  
 7 MEMBER DELEON: I think it's really important  
 8 to note that we now know Nikhilananda's real name.  
 9 (Laughter.)  
 10 MEMBER DEREBO: I wrote it down. It's  
 11 actually on my computer right now. I'm almost tempted  
 12 to call him Harry.  
 13 MEMBER DELEON: Well, former real name.  
 14 CHAIR STONE: Leaps and bounds by the Charter  
 15 Commission today.  
 16 MEMBER DELEON: I think there's a couple  
 17 interesting points that I would like to raise,  
 18 highlight, to make sure they don't go away. I think  
 19 it's a good point that candidates for County office need  
 20 to be voters of the district. And the Charter should  
 21 clearly say that they are voters in the district.  
 22 Whether they voted in the last election or not is  
 23 something to be determined. But at least, right now, it  
 24 doesn't say they have to be voters. That came up in the  
 25 Kaho'ohalahala case where the gentleman was not a voter

1 in the district and it didn't really matter to the fact  
 2 he was still on the Council.  
 3 CHAIR STONE: Thank you.  
 4 MEMBER DELEON: The other thing I would like  
 5 to point out is the discussion about the Liquor  
 6 Commission and about the fact that the Liquor Commission  
 7 is a free-running thing. It's independent of the mayor.  
 8 And the Police Department is free of the mayor; it's run  
 9 by a commission. The Fire Department is run by a  
 10 commission, God only knows why. The Civil Service  
 11 Commission and, I believe, the Water Department used to  
 12 be, but it's not anymore. So there's, I believe, three  
 13 or four that are running by themselves. Civil Service  
 14 is obvious.  
 15 Police Commission, you can get into the whole  
 16 thing about -- okay, we have a pretty akamai group here.  
 17 How many of you have ever been to a Police Commission  
 18 meeting? Whatever. Were you on the Commission at one  
 19 point?  
 20 COMMISSIONER HEDANI: Yes. I was the  
 21 chairman.  
 22 (Laughter.)  
 23 MEMBER DELEON: How many of you that wasn't  
 24 appointed to the board?  
 25 MEMBER DEREBO: This is a tough crowd. You

1 got to be clear.  
 2 MEMBER DELEON: So the point is, I was on -- I  
 3 was on -- I was active in Maui County politics as a  
 4 reporter, as a government official, as all kinds of, you  
 5 know, ways of making trouble. And it took me 25 years  
 6 before I even made it there. And I had to do it  
 7 deliberately because I realized I never seen one.  
 8 That's our oversight to the Police Department; it's not  
 9 the mayor. You can't call the mayor and he can't do  
 10 anything for you. It's the Police Commission. And  
 11 nobody ever goes there.  
 12 You know where their meetings are held? In  
 13 the Police Chief's office. And you have to go through  
 14 security to get to it. So, I mean, that's a --  
 15 Just raising a point of the Liquor Commission,  
 16 there's two Liquor Commissions. There's a Liquor  
 17 Board --  
 18 MEMBER DEREBO: Adjudication Board.  
 19 MEMBER DELEON: -- that sets up the actual  
 20 fees and the governance and the budget of the operation  
 21 and gives licenses, and then there's an adjudication  
 22 board, if they bust you. And the membership of those  
 23 two go back and forth regularly. I mean, it's like a  
 24 recirculating thing. The members of the Adjudication  
 25 Board go to the Commission, the Commissioners go back to

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1 the Adjudication Board. There's one lady that is there  
 2 25 years, I think, on that rotation. You get down to  
 3 inbred thinking going on, that it kind of gets to be a  
 4 problem.  
 5 And I guess I'm guilty because I was helping  
 6 with the appointments in these things, but -- but my  
 7 point to that is that board also runs independent of the  
 8 mayor. And it's pretty inane. The gentleman's correct.  
 9 It's pretty inane, some of the rules. I mean, you can't  
 10 dance, you know, in a place that have liquor or you can  
 11 only dance in this little square the Commission actually  
 12 points out that you can dance in. I mean -- I don't  
 13 know. It's kind of a little bit off the edge. But we  
 14 also have to worry about whether -- where state law  
 15 becomes involved in that.  
 16 CHAIR STONE: Thank you, Commissioner DeLeon.  
 17 From discussion on the Liquor Commission  
 18 issue, I've noticed -- as a business owner, with  
 19 restaurants, I do find it frustrating and nerve-racking  
 20 that, oftentimes, the Liquor Commission has absolute  
 21 control over your business with very little recourse, if  
 22 they decide to come down on you. And it seems that -- I  
 23 don't know how in the Charter they garnered so much  
 24 self-sustenance. And I think that it's -- I'm sure a  
 25 lot of the restaurant owners in our County would like

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1 that looked at, for sure.  
 2 Commissioner.  
 3 MEMBER HASHIMOTO: Tonight is the first time  
 4 I've heard this going off the path a little bit. You  
 5 know, we've had a lot of discussions up until tonight,  
 6 where we've been talking about voting a lot. As a  
 7 matter of fact, it's been repeated a number of times on  
 8 the other side. And I was a little concerned that all  
 9 of our attention seemed to be going into that  
 10 well-discussed subject. And so tonight is the first  
 11 time I've heard us going into some of the other areas  
 12 that I've always had concerns about. And that is about  
 13 the Police Commission, the Fire Commission and -- I  
 14 believe there was another one -- the Liquor Commission.  
 15 So I'm glad that that came out tonight finally.  
 16 And the reason I'm saying that is I just don't  
 17 want us to get tied up with this voting because that's  
 18 not going to change. I think we've heard every version.  
 19 And all we're going to hear now is a repeat of what  
 20 we've heard about as far as voting is concerned. But I  
 21 think the fact that the thing about the Liquor  
 22 Commission came up tonight is a good one. And others  
 23 fell out of that, also. So I'm glad that happened.  
 24 Because we really need to pay attention to those because  
 25 that affects how our government operates more so than

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1 the voting, because voting has no real direct bearing on  
 2 how our County operates.  
 3 CHAIR STONE: Thank you. Noted.  
 4 Commissioners, discussion on that topic or any  
 5 other topic? Commissioner Baxa.  
 6 MEMBER BAXA: Yeah, Mr. Chair, I would like to  
 7 second the --  
 8 CHAIR STONE: It's on.  
 9 MEMBER BAXA: It's on? I would like to second  
 10 the further discussion next time, not now, about  
 11 considering the impact of having these commissions stay  
 12 as they are right now. My main problem is  
 13 accountability. They're supposed to be departments,  
 14 supposed to be the mayor who is the head of the  
 15 department. And, yet, when you read the Charter, by  
 16 process, the mayor in terms of responsibility. And the  
 17 main concern I have is for the people who are being  
 18 affected, they do not know who to turn to for  
 19 accountability. That is the main question that I have.  
 20 CHAIR STONE: Very good.  
 21 MEMBER BAXA: And as far as the voting is  
 22 concerned, maybe we should make known that, in Hana, as  
 23 testified today, and other areas where we have gone,  
 24 they are at least -- my main feeling is that they are  
 25 satisfied with the way it is. I don't know if I am

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1 wrong, but that is the way how I interpret it today.  
 2 CHAIR STONE: Thank you very much. Thank you.  
 3 Yes, please.  
 4 MEMBER CRIVELLO: I recently finished my term  
 5 as Chair for the Fire Commission. I'm sitting here  
 6 today with people who are on the Charter Commission and  
 7 we're all volunteers. And I believe the end result is  
 8 that -- for instance, the Fire Chief, yes, your  
 9 Commission, evaluation, anything to do with operation  
 10 funnels back to the mayor. And I'm not familiar so much  
 11 with the Police Commission. It's been in existence for  
 12 a long time, I understand. And the Fire Commission is a  
 13 fairly new commission.  
 14 And I think if I were to look at some of the  
 15 faults is that there's really nothing -- you know, they  
 16 create this commission and there's really no guidelines  
 17 or policies to go by. And maybe it's not solid enough  
 18 in the Charter as far as defining what role the  
 19 different commissioners have.  
 20 So will it be more costly to have the  
 21 departments come directly under the mayor? And what  
 22 would be the difference? Do we have political  
 23 appointments?  
 24 I can honestly testify, as a volunteer, we  
 25 went through a rigmarole in selecting the chief at the

17 (Pages 65 to 68)

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1 time. And I'd like to at least give credit for the  
2 volunteers that put in the time. Though the learning  
3 takes about a year and-a-half or two years, we're able  
4 to serve at least six years, so you have that  
5 continuity.

6 So maybe I'm just kind of coming off from a  
7 commission that I felt very comfortable with. It was a  
8 learning process, you know. And someone who served on  
9 other commissions, then, should we just slash it all,  
10 then, and put everything under the mayor? I think  
11 that's something that we need to consider if we're  
12 talking about the value of commissions.

13 CHAIR STONE: Thank you. Very good. Thank  
14 you. Discussion?

15 VICE-CHAIR HEDANI: Having served five years  
16 on the Police Commission, two of which were as Chairman  
17 of the Police Commission, I felt that the commission  
18 served a worthwhile purpose.

19 And that I think the Mayor's Office right now  
20 has a -- may have a misunderstanding as to, you know,  
21 what their capacity is relative to supervision. The  
22 Charter provides, under Section 7.6 -- or 7-6, that the  
23 mayor has supervision directly, or through the managing  
24 director, over all departments enumerated in Article 8  
25 in this Charter. So it does have a provision of the

1 under Article 13, impeachment of officers. So a charge  
2 could be brought through that article through the Board  
3 of Ethics.

4 CHAIR STONE: Very good input. Frank.

5 MEMBER DEREGO: And I agree with you, but  
6 something broke down in that particular situation. And  
7 I think it's twofold. I think it's the issue of  
8 immunity and indemnification of members of boards and  
9 commissions. Because in that particular instance, there  
10 was the not so veiled threat of personal lawsuits. And  
11 this is not only for just Ethics commission members;  
12 it's for any commission member. So I think it's  
13 something that we need to look at that, you know, as  
14 citizen volunteers, you know, that we need -- the County  
15 needs to support these individuals because they're  
16 giving up their time and effort in order to serve on  
17 these commissions.

18 So I agree with you, it says there, in words,  
19 but somehow, in terms of practical action, you know,  
20 there was a breakdown somehow. And we need to figure  
21 out where that breakdown has occurred and how it works.

22 Just one other thing, Mr. Chair, that I would  
23 like to bring up about boards and commissions. It's  
24 kind of a funny article. I always kind of laugh about  
25 this. Under the general provisions of Article 13 --

1 Police Department.

2 The other thing that I think the commission  
3 does, in hiring and firing the police chief, allows for  
4 professional development within the department. And  
5 it's not a position that necessarily is just changed  
6 over every four years as an appointed position. So I  
7 thought that there was some benefit there.

8 My only other comment was on the Code of  
9 Ethics question that came up. I looked at the rules of  
10 the Board of Ethics and the provisions that they are  
11 doing for us, under Article 10. And, at first, I  
12 thought that honesty wasn't one of the items that they  
13 were enforcing --

14 (Laughter.)

15 VICE-CHAIR HEDANI: -- because it lists all  
16 kinds of different things, like financial disclosures,  
17 representations before the Council, et cetera. But, in  
18 Section 10.1, under its declaration of policy, it says  
19 elected and appointed officers and the employees shall  
20 demonstrate by their example the highest standards of  
21 ethical conduct that the public would justifiably have  
22 trust and confidence in the integrity of government.  
23 And it gives them, under Section 10-2(b), the ability to  
24 impeach for a violation of that provision. And that  
25 carry-through on the impeachment also carries through

1 this is something I read last night and I thought it was  
2 awesome, but then it has no practical consequence.  
3 Article 13-2, Number 10, it says all boards and  
4 commissions shall have the power to subpoena witnesses  
5 and administer oaths to witnesses as to all matters  
6 within the authority of such board and commission. And  
7 we actually had a discussion of this in the Cost of  
8 Government Commission. So I asked them, I said, so if a  
9 County employee refuses to give information, I can  
10 subpoena them. They said, yes. But the subpoena  
11 doesn't mean anything, because there's no consequences,  
12 because we're not a juridical authority, so, therefore,  
13 you can't issue a bench warrant. So it's a subpoena  
14 without any meaning. It may have moral meaning, you may  
15 go and advertise, well, I subpoenaed these guys and  
16 they're not showing up. You know, you can write in the  
17 Viewpoint and, you know, maybe morally shame them into  
18 coming in, but, you know, according to this, you know,  
19 you can subpoena people, but there's no consequences  
20 involved. And I think that's ultimately very  
21 interesting.

22 CHAIR STONE: Good point. Commissioners,  
23 discussion? Very good point. Yes.

24 VICE-CHAIR HEDANI: Just a comment on personal  
25 liability of people that volunteer for the commissions.

<p style="text-align: right;">Page 73</p> <p>1 When I served on the Planning Commission for five years,  2 I always used to say that Mrs. Hedani had a rule that I  3 wasn't supposed to jeopardize our house and our home in  4 making any decisions before the Commission. And when it  5 came to issues that had liability attached to it, the  6 guideline that we always went by was that if you abided  7 by the guidance of your Corp Counsel that was assigned  8 to that particular commission in your judgment, then you  9 would be covered on any subsequent litigation that took  10 place by the County. And there was some issue.  11 MEMBER DEREGO: Can I ask you a question? Is  12 that by Hawaii Revised Statutes, is that by Maui County  13 Code, is that some sort of loose agreement that you're  14 indemnified?  15 VICE-CHAIR HEDANI: That was a commitment that  16 I got from the Corp Counsel's Office under oath while  17 they were testifying before our Commission.  18 MEMBER DEREGO: Okay. I guess my only point  19 about this is that it might be even stronger if it's  20 somehow written into the Charter, that it's not, you  21 know, Corp Counsel opinion or legal advice, or  22 otherwise, that it would be good if we put stronger  23 language that does that in the Charter.  24 CHAIR STONE: Commissioner Moikeha.  25 MEMBER MOIKEHA: I think this is another</p>	<p style="text-align: right;">Page 75</p> <p>1 we had the opportunity to be sued personally if the  2 Council chose not to indemnify us. And I think that's  3 just wrong, you know. We're volunteers, we don't get  4 paid for this, we put a lot of time and effort into  5 boards and commissions we serve on for the general  6 public. And I think that's just wrong. And you're  7 going to find a lot of people who will probably not put  8 themselves out there just for that very reason.  9 CHAIR STONE: So, Susan, you would support the  10 idea that Frank is floating out there that indemnity  11 should be put in the Charter itself?  12 MEMBER MOIKEHA: I would say so. Well, more  13 importantly, not even just put in there, because from  14 what I'm gathering is a lot of people feel that this has  15 a stronger foundation and that's why they want these  16 amendments. And that's what we're about, trying to  17 figure out, okay, what are we going to put out there.  18 And if that's true, then somebody's got to enforce these  19 things. Because that's a huge problem. You know, if  20 you're not being enforced, why are we having a nice  21 little pink book?  22 CHAIR STONE: Just as an example, though, in  23 your guys' case, the Council had a choice whether or not  24 to indemnify. I think what Frank's saying is you don't  25 -- the Council doesn't have a choice, we are</p>
<p style="text-align: right;">Page 74</p> <p>1 example of where we need to enforce these things.  2 Because I was a member of the Planning Commission when  3 we were sued. This case went all the way to the Federal  4 Government in the challenge of religious act of freedom  5 and because of a decision we made. And when I watched  6 how this all played out, so the commissioners could be  7 protected and indemnified by the Council, who is the  8 authority to do so, what I found to be interesting is --  9 and I would say the authority over this would be the  10 Chair and, also, Corp Counsel advising them -- is that  11 in this particular case, we had two councilmembers  12 trying to ask questions whether or not the commission  13 made the right choice or not. And it was never about  14 that. It was supposed to be, did we follow Corp  15 Counsel's counsel at that time. And it was clear that  16 we did. And we got into this situation.  17 So I think what Frank was saying earlier is,  18 you know, it's great to have these Charter amendments,  19 but do they really -- are they really enforced, number  20 one. And, if not, why. And is there someone that needs  21 to be making sure that we are following what we have.  22 Why else go out there and make new amendments if it's --  23 if it's not going to have any force of law to protect,  24 you know, our rights?  25 I mean, we were sued. We were almost being --</p>	<p style="text-align: right;">Page 76</p> <p>1 indemnified. And I think that's -- maybe that's where  2 this lies.  3 MEMBER MOIKEHA: Yeah, I would totally support  4 that. But the thing with the Council is that they were  5 not being directed that -- the subject at hand was did  6 they follow the Corp Counsel's advice. Who cares what  7 decision they came up with, you know, or what the basis  8 or criteria that they made that decision. It's not  9 about were we right or wrong; it's that the Council was  10 not there looking at what the issue was. And that was  11 did this commission, as a body, by way of their vote,  12 follow Corp Counsel. And the answer was, yes, we did.  13 So it's that enforcement that I'm looking to. Not only  14 putting it as a foundation within the Charter, but it  15 better have some enforcement.  16 CHAIR STONE: Understood. Good point.  17 MEMBER DELEON: Chairman, Corp Counsel is  18 gagging in the corner over there.  19 (Laughter.)  20 CHAIR STONE: Well, we'll just make sure that  21 the court reporter got the gags on the record.  22 (Laughter.)  23 CHAIR STONE: Commissioners, any further  24 discussion?  25 (Silence.)</p>

19 (Pages 73 to 76)

1 CHAIR STONE: I just have one point. The  
 2 proposal for a telecommunications center, we heard that  
 3 before, I think that's a very decent idea that could  
 4 help with the outlying areas a lot in being involved in  
 5 the process. I personally like that idea, so I just  
 6 want to put my support behind that.  
 7 Any further discussion?  
 8 MEMBER DELEON: Yeah. I just wanted to follow  
 9 up on the thought that Wayne left with, with that thing  
 10 about, you know, maybe just a misstatement in the  
 11 Charter, the idea that the mayor had the authority over  
 12 the boards, over the departments that are not appointed  
 13 by the mayor. And I'll tell you, from a function in the  
 14 Mayor's Office, that is not true.  
 15 When the Water Department was under the --  
 16 under the Board of Water Supply, I know a mayor who was  
 17 -- would have done anything in their power to fire that  
 18 water director, but could not.  
 19 I have -- we repeatedly and constantly were  
 20 getting calls about the Police Department. Not because  
 21 the Police Department did anything really wrong, they're  
 22 not saying anything negative about the Police  
 23 Department, but the public's looking for a place to go.  
 24 And there's nothing really a mayor can do about it. He  
 25 can have a conversation with the Police Chief, and the

1 Police Chief can choose to do what he wants to do.  
 2 Same with the Liquor Board, particularly the  
 3 Civil Service Commission. The Civil Service Commission  
 4 creates a unique situation because they have a  
 5 stranglehold on how you can move the personnel in and  
 6 out of your departments. And if you have seen the  
 7 function in Maui County in the last couple years, you'll  
 8 know that it takes close to a year to hire somebody.  
 9 It's ridiculous. I mean, it's just really tied up in  
 10 knots. And it's been like that for a long time. And  
 11 the mayor has no authority over. They have no way to  
 12 enforce that. And believe me, if any of those mayors  
 13 could have, they would have. But they don't.  
 14 CHAIR STONE: Point taken. Good point.  
 15 MEMBER SUGIMURA: I wonder -- I was hoping on  
 16 waiting to hear from the Cost of Government, because you  
 17 had some recommendations you were going to present  
 18 before the Charter Commission. Frank, did you do the  
 19 study?  
 20 MEMBER DEREBO: Yeah.  
 21 CHAIR STONE: At the last meeting, we gave  
 22 Frank a little bit of a slack.  
 23 (Laughter.)  
 24 MEMBER DEREBO: Right. Right. Right.  
 25 CHAIR STONE: What was the date again, Frank?

1 MEMBER DEREBO: I don't know.  
 2 CHAIR STONE: Set a date for us, Frank.  
 3 MEMBER DEREBO: Okay. Well, we'll talk about  
 4 it offline.  
 5 MEMBER SUGIMURA: But I also wonder -- we  
 6 heard from the Police Department, we got that letter  
 7 from the Police Department. I wonder if we're waiting  
 8 for letters from the Liquor and the Fire Department in  
 9 response to our initial letter that we sent out. So can  
 10 we ask for that?  
 11 CHAIR STONE: Yes, we could re-request, of  
 12 course.  
 13 MEMBER CRIVELLO: Excuse me, Mr. Chair.  
 14 CHAIR STONE: Sure.  
 15 MEMBER CRIVELLO: I believe there was  
 16 correspondence that went out. This is where I feel that  
 17 the -- the Fire Chief, as well as all other appointees,  
 18 is a director that comes under the mayor. So the mayor  
 19 will write something on behalf of all of his directors,  
 20 and that includes the Fire Chief and the Police Chief.  
 21 CHAIR STONE: We'll see. We'll see.  
 22 MEMBER CRIVELLO: Yeah.  
 23 CHAIR STONE: We're still waiting to hear from  
 24 the Mayor's Office. I know that --  
 25 MEMBER CRIVELLO: This is in answer to what

1 Yuki is asking, more or less, why haven't we heard --  
 2 CHAIR STONE: Well, we did hear from the  
 3 Police Chief.  
 4 MEMBER CRIVELLO: Right, you heard from the  
 5 Police Chief. But I understand there's a hold for other  
 6 directors to be submitting their own because it will be  
 7 a cohesive united front coming from the Mayor, from the  
 8 Administration.  
 9 MEMBER SUGIMURA: Is that what is happening?  
 10 CHAIR STONE: Interesting. Good to know. Any  
 11 further discussion? Flo?  
 12 MEMBER WIGER: No.  
 13 CHAIR STONE: Frank?  
 14 MEMBER DEREBO: I just wanted to make one  
 15 point about what the Cost of Government did as sort of a  
 16 preview. Most of the recommendations that were in the  
 17 report touched on boards and commissions that are not  
 18 outlined in the Charter. So it wouldn't really actually  
 19 do anything for us in that regard. Some of the  
 20 interesting things, in the back of the exhibits, that  
 21 sort of gives this information out -- I don't think  
 22 we've really actually taken sort of a panoramic view of  
 23 all the boards and commissions. There are particular  
 24 exhibits in the back of the report that actually list  
 25 all the boards and commissions, tells you which ones are

1 established by Hawaii Revised Statutes, the ones that  
2 are established by Charter -- I'll color-code them for  
3 you -- and the ones that are established by Maui County  
4 Code.

5 I think there's a larger issue here which was  
6 not covered by the Cost of Government Report, and is  
7 sort of a proliferation of boards and commissions and  
8 whether or not you want sort of either a structural  
9 change by putting a cap on the number of boards and  
10 commissions. You can either do that by ordinance or you  
11 can do it by Charter.

12 You know, what I'm going to probably do in  
13 this report is maybe give maybe two or three kinds of  
14 avenues, that the Charter Commission can look at, that  
15 have not come from the Cost of Government Commission  
16 but has come from my experience. Just looking at this  
17 issue in terms of the numbers of boards and commissions  
18 and the soft costs involved in actually recruiting,  
19 retaining and, you know, getting these guys up and  
20 going, you know, which is substantial, actually. So --

21 CHAIR STONE: We're on the edge of our seats  
22 waiting for that report.

23 MEMBER DEREGO: I will talk to you offline  
24 about that.

25 CHAIR STONE: So that was a little teaser --

1 MEMBER DEREGO: That was a teaser.

2 CHAIR STONE: -- from Frank about the upcoming  
3 report sometime in July.

4 MEMBER DEREGO: Right. Sometime in July, yes.

5 CHAIR STONE: Okay. Thank you.  
6 Commissioners, any further discussion?  
7 (Silence.)

8 CHAIR STONE: Okay. Very good. Our next  
9 Charter Commission meeting is scheduled for Monday, July  
10 11th, at 12:00 p.m., to be held at the Planning  
11 Conference Room in Wailuku. And I'd very much like to  
12 thank everyone for coming tonight. All your time and  
13 input is extremely valuable to this process and has a  
14 big impact on Maui's future.

15 Without objection, I'll adjourn this meeting  
16 now. And, everybody, fly and drive safe. Thank you  
17 very much for coming.

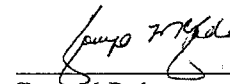
18 (Meeting adjourned at 8:33 p.m.)  
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1 CERTIFICATE

2  
3  
4 I, TONYA MCDADE, Certified Court Reporter of  
5 the State of Hawaii, do hereby certify that the  
6 proceedings contained herein were taken by me in machine  
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10 accurate transcript of the proceedings had in the  
11 foregoing matter.

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

15 DATED this 19th day of July, 2011.

16  
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18

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