

Approved 08/15/11  
COUNTY OF MAUI, STATE OF HAWAII

Page 1

CHARTER COMMISSION  
PUBLIC HEARING

Held at the Lahaina Civic Center, 1840 Honoapiilani  
Highway, Lahaina, Maui, Hawaii, commencing at 6:32 p.m.,  
on Wednesday, July 13, 2011.

Reported by: Tonya McDade, CSR, CRR  
Certified Shorthand Reporters Maui  
Wells Street Professional Center  
2145 Wells Street, Suite 302  
Wailuku, Hawaii 96793  
(808)244-3376  
reporters@csrmaui.com

Page 3

1 (Wednesday, July 13, 2011, 6:32 p.m.)

2 \* \* \*

3 CHAIR STONE: Hello, everyone. Thank you for  
4 attending this public meeting of the Charter Commission.  
5 My name Josh Stone and I'm Chairman of the Commission.  
6 If you need, there are copies of the Maui County Charter  
7 available with Lisa Kahuhu here -- Lisa, please raise  
8 your hand -- as well as copies of this evening's agenda.  
9 As per our rules, all discussions tonight shall be  
10 pertaining to the Maui County Charter.

11 Before beginning public testimony, we have a  
12 few items business to address.

13 Firstly, I would like to call this meeting to  
14 order as of 6:30 p.m., and introduce our Commissioners  
15 that are present. Let's quickly go down the table  
16 starting here on my right. Commissioners, if you could  
17 state your name and where you come from.

18 MEMBER HASHIMOTO: Clifford Hashimoto from  
19 Hana.

20 MEMBER DELEON: Dave DeLeon, Haiku.

21 MEMBER CRIVELLO: Stacy Crivello, Molokai.

22 MEMBER SUGIMURA: Yuki Lei Sugimura from Kula.

23 MEMBER OKAMOTO: Kay Okamoto from Lanai.

24 CHAIR STONE: Josh Stone from Paia.

25 VICE-CHAIR HEDANI: Wayne Hedani from Wailuku.

Page 2

1 ATTENDANCE  
2 BOARD MEMBERS PRESENT:  
Joshua A. Stone, Chair  
3 Wayne N. Hedani, Vice-Chair  
Artemio C. Baxa, Member  
4 Stephanie S. Crivello, Member  
David P. DeLeon, Member  
5 Frank R. DeRego, Jr., Member  
Clifford P. Hashimoto, Member  
6 Wayne N. Hedani, Member  
Susan A. Moikeha, Member  
7 Linda Kay Okamoto, Member  
Yuki Lei Sugimura, Member  
8 Flo V. Wiger, Member  
9 STAFF PRESENT:  
Edward S. Kushi, Jr., First Deputy Corporation Counsel  
10 Lisa Kahuhu, Supervising Law Technician  
11 ADMINISTRATION PRESENT:  
Zeke Kalua  
12  
13 OTHERS PRESENT:  
Paul Laub  
Alton De Gama  
14 George Lavenson  
Butch Soares  
15 Archie Kalepa  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Page 4

1 MEMBER WIGER: Flo Wiger, Lahaina.

2 MEMBER BAXA: Artemio Baxa, Makawao.

3 MEMBER DEREBO: Frank DeRego, Jr., Kahului.

4 CHAIR STONE: Thank you. And, also, I would  
5 like to introduce our staff. From Deputy Corporation  
6 Counsel, we have Edward Kushi, Jr. Ed, raise your hand.  
7 Thank you. We have, again, Lisa Kahuhu, who is our  
8 Supervising Law Technician. And, also, Tonya McDade,  
9 who is our court reporter. Thank you very much for  
10 being here. Oh, sorry. And also joining us is Zeke  
11 Kalua who is Executive Assistant to the Mayor. Thank  
12 you very much. Good to see you.

13 And, again, we are technically challenged this  
14 evening with only two microphones. So we're going to  
15 have to pass the microphones back and forth down the  
16 table as we take questions.

17 It's important to understand that the Maui  
18 County Charter is the blueprint for how government  
19 functions here in Maui. It has been referred to as the  
20 Maui County Constitution. It is the document that  
21 governs our government and, among other things,  
22 determines its structure, powers, efficiency and  
23 accountability. It is, therefore, very important that  
24 the citizens of Maui County have the opportunity to  
25 address concerns and rectify problems with the Charter

1 (Pages 1 to 4)

1 as perceived today. This Charter Commission is a unique  
2 opportunity to achieve those changes. And the public's  
3 input is a vital part of the amendment proposal process.

4 As a matter of understanding, the Charter  
5 Commission may propose amendments to the Charter, but  
6 these amendments must be approved by a majority of Maui  
7 County voters during an election.

8 Again, before we start, copies of the present  
9 Maui County Charter and amendments are available to the  
10 public with Lisa, if you need.

11 At this time, I would like to begin with oral  
12 testimony. And before we begin, I would like to go over  
13 our oral testimony rules.

14 We'll call up each public testifier in the  
15 order that they registered to testify. Each person will  
16 have three minutes to testify on items concerning our  
17 Maui County Charter. If the testifier requires more  
18 time, I will grant them an additional minute to complete  
19 their testimony. At the end of this additional minute,  
20 the testifier will be asked to stop their testimony.  
21 And if more time is required on an item, the testifier  
22 will be allowed an additional three minutes to complete  
23 testimony following the testimony of all other  
24 registered testifiers. Following a testifier's  
25 testimony, I will ask the Commissioners if they need

1 puts the state of Hawaii at Number 46 out of the 50  
2 states for economic freedom, number 43 out of 50 for  
3 personal freedom, and 47 out of 50 for overall freedom.  
4 Action is needed.

5 Listed are some of the problems.

6 We are in the middle of a recession. And  
7 people cannot pay their bills, they are losing their  
8 homes. And it is becoming worse daily as the prices for  
9 food and energy skyrocket and the equity in the homes  
10 decrease.

11 A: This county prohibits people from working  
12 in their home, even though cottage industry and garage  
13 workshops have been the historic foundation of small  
14 businesses which are widely acknowledged to be the  
15 largest employers of our workers.

16 B: This county restricts the renting of one's  
17 home to 180 days or more without a special permit, which  
18 has been substantially shown to not actually be  
19 available through a reasonable process. The homeowner  
20 needs to be able to make use of his most costly asset to  
21 make it through difficult times.

22 Here's a possible solution: The addition of  
23 the Patrick Henry quote and the statement of the use of  
24 the home for either small business or rental for any  
25 period of time shall not be infringed upon except in

1 clarification on the testimony.

2 With that, Lisa, please introduce our first  
3 testifier, please. Four minutes.

4 MS. KAHUHU: Paul Laub.

5 CHAIR STONE: Mr. Laub, thank you very much  
6 for coming this evening.

7 MR. LAUB: Thank you, sir.

8 CHAIR STONE: And there's a microphone  
9 provided for you.

10 ...BEGIN PUBLIC TESTIMONY...

11 MR. LAUB: Thank you, sir. Aloha.

12 I'm going to start with a quote: "The  
13 Constitution is not an instrument for government to  
14 restrain the people; it is an instrument for the people  
15 to restrain the government, lest to dominate our lives  
16 and our interests." And that's by Patrick Henry.

17 There's two sides to this coin. One is  
18 that -- one side restrains the government from incursion  
19 on rights and liberties. The other side specifically  
20 preserves rights and liberties that have been encroached  
21 upon by the government.

22 So I know this may sound -- this may be a  
23 little unusual, what I'm going to put forward, but I  
24 think you might come to agreement with: The 2011 study  
25 from the Mercatus Center of George Washington University

1 cases of health, safety, welfare and nuisance being  
2 established. In other words, no harm, no foul. The  
3 ability to work and use ones assets is at the  
4 cornerstone of our people's foundation.

5 Two: It has been well established that the  
6 average person cannot get a building permit in a  
7 reasonable timeframe, with some permits taking years.  
8 Building permits were not even required, actually, I  
9 think, until 1957. And all older homes don't have one  
10 yet. They still exist and they still function quite  
11 well.

12 Possible solution: All required permits for  
13 single-family homes be able to be executed by the  
14 average high school graduate and must be deemed granted  
15 if not issued or denied for cause by permitting  
16 authorities within 30 days of completed submission.

17 Three: The current requirement of 20 percent  
18 of the previous election's voters to exercise  
19 initiatives is excessive and never has been  
20 accomplished, as I understand it, and seems to be  
21 designed to stop the public will. Reduce the amount to  
22 five percent.

23 Four: The County has unilaterally closed  
24 beach access during the night and early morning with  
25 metal pipe barriers.

<p style="text-align: right;">Page 9</p> <p>1 Possible solution: The County shall not</p> <p>2 prohibit the public from reasonable lawful access to</p> <p>3 public property except in times of limited need for</p> <p>4 health, safety and welfare.</p> <p>5 Five: It currently takes a minimum of 30 days</p> <p>6 to get a certificate of occupancy for a business, and</p> <p>7 some -- sometimes it takes up to half a year. All the</p> <p>8 while, the applicant is being drained of needed cash</p> <p>9 flow without the ability to operate. Most jurisdictions</p> <p>10 take three days.</p> <p>11 Possible solution: A statement that all</p> <p>12 permitting authorities have 30 days after filing of</p> <p>13 requisite applications to accept or reject for cause --</p> <p>14 excuse me -- an application, or shall be deemed granted.</p> <p>15 Further, applications must be able to be filled out and</p> <p>16 filed by the average person with a high school</p> <p>17 education.</p> <p>18 It is requested that these proposals shall be</p> <p>19 inserted on Page 1 under "Powers of the County." The</p> <p>20 County needs to specify freedoms of the people to ensure</p> <p>21 their existence. Thank you.</p> <p>22 CHAIR STONE: Thank you very much, Mr. Laub.</p> <p>23 Commissioners, clarification questions on the</p> <p>24 testimony?</p> <p>25 (Silence.)</p>	<p style="text-align: right;">Page 11</p> <p>1 any person involved or being present at a cockfight be</p> <p>2 convicted of a misdemeanor. This was in the Territory</p> <p>3 days, I grew up in the plantation days, and was a petty</p> <p>4 misdemeanor. But we became a state 1959. And after,</p> <p>5 (inaudible) cruelty to animals, and made us criminals.</p> <p>6 This is pretty much a Hawaiian historical cultural</p> <p>7 heritage that I realize David Malo wrote in Hawaiian</p> <p>8 Book of Antiquities. And everybody thought this was a</p> <p>9 Filipino thing, but this is a Native Hawaiian cultural</p> <p>10 practice that was practiced way back before Western</p> <p>11 contact.</p> <p>12 I just wanted to say this -- this specific law</p> <p>13 was dismissed by the Hawaii Supreme Court back in May</p> <p>14 28 -- 23rd, 1968, on the grounds of it conflict with the</p> <p>15 State statute and unconstitutional and unreasonably</p> <p>16 infringes on a person's freedom of locomotion and</p> <p>17 movement.</p> <p>18 Cockfighting has been one of the oldest</p> <p>19 recognized sport to mankind and is highly regarded</p> <p>20 esteemed pastime in Hawaiian cultural heritage. It is</p> <p>21 also cultural and heritage that is recognized and</p> <p>22 accepted by many different groups here Maui and Hawaii</p> <p>23 Furthermore, I found out, March 1972, Maui</p> <p>24 County Council certified and adopted Resolution Number</p> <p>25 45, requesting recognition preservation, preservation</p>
<p style="text-align: right;">Page 10</p> <p>1 CHAIR STONE: Very good. Thank you so much</p> <p>2 for your testimony tonight. Thank you very much.</p> <p>3 Lisa, next testifier, please.</p> <p>4 MS. KAHUHU: Alton De Gama</p> <p>5 CHAIR STONE: I'm sorry. Could you repeat</p> <p>6 that name for the Chair?</p> <p>7 MS. KAHUHU: Alton De Gama.</p> <p>8 CHAIR STONE: De Gama?</p> <p>9 MS. KAHUHU: De Gama.</p> <p>10 CHAIR STONE: Mr. De Gama, thank you very much</p> <p>11 for coming this evening.</p> <p>12 MR. DE GAMA: Hello, Commissioners. My first</p> <p>13 time. Not too good public speaker, but I see Stone the</p> <p>14 other night, and he say get involved.</p> <p>15 CHAIR STONE: Get involved.</p> <p>16 MR. DE GAMA: My request is a long time coming</p> <p>17 and been in my heart long time.</p> <p>18 CHAIR STONE: One second. Sorry, sir. Is the</p> <p>19 microphone on?</p> <p>20 MR. DE GAMA: Sorry. Got 'em on. Long time</p> <p>21 coming. I feel I had to say something that's always</p> <p>22 been in my heart. I know when this law was passed in</p> <p>23 1947, never a public hearing. Like he said, took away a</p> <p>24 lot of people's right, took away cockfighting. And it's</p> <p>25 County Code 9.08.010. And it's -- basically, it's on</p>	<p style="text-align: right;">Page 12</p> <p>1 and acceptance of cockfighting in the State of Hawaii as</p> <p>2 a cultural heritage. A lot of people don't realize</p> <p>3 this. Even the Police Chief never realized this is a</p> <p>4 cultural thing.</p> <p>5 Anyway, Maui Police Department have been using</p> <p>6 this law for many years, but they been using a state law</p> <p>7 where there's much more, it's a criminal misdemeanor.</p> <p>8 And, you know, they just need to do their job.</p> <p>9 I came to the -- came to the last meeting you</p> <p>10 guys supposed to have, but they canceled. I came here</p> <p>11 and nobody was here. But, anyway. It was just before</p> <p>12 4th of July and, at that weekend, a lot of other groups</p> <p>13 enjoyed they freedoms, pursuit of happiness, the rodeo.</p> <p>14 Now the MMA, our kids to go there and really hurt each</p> <p>15 other. You know, we just raise our roosters and, you</p> <p>16 know, we enjoy that. And, you know, we give them the</p> <p>17 right to fight for their life.</p> <p>18 If anybody get anything to say about cruelty,</p> <p>19 let me tell you guys one thing. You tell me, before you</p> <p>20 criticize us, tell me, how is abortion anything that you</p> <p>21 guys can even justify.</p> <p>22 I left some information in the resolution</p> <p>23 here. I don't have enough copies for everybody.</p> <p>24 One politician told me, to bring up the</p> <p>25 subject is political suicide. You know what I mean,</p>

3 (Pages 9 to 12)

Certified Shorthand Reporters Maui

808-244-3376

1 come on. The governor, the first law he signed into  
2 bill -- law this year, well, you know what I mean,  
3 everybody know. That's their right.

4 And I heard so much about equity, justice.  
5 Where's ours? Nobody can (inaudible), nobody  
6 (inaudible), trying to help us try to do stuff like  
7 this. Animal rights groups, they are known in United  
8 States by the FBI as a domestic terrorist because they  
9 go after research centers and that kind of like that  
10 stuff.

11 But, anyway, I thank you.

12 CHAIR STONE: Thank you so much for your time.  
13 We really appreciate you coming here tonight and  
14 testifying. Thank you. I have a question. Have you  
15 taken this ordinance issue up with your councilmember?

16 MR. DE GAMA: Three years ago, I brought it to  
17 the County Council. (Inaudible) told me should bring it  
18 to the Charter. I prefer not to come to the Charter. I  
19 prefer to bring to the people. I would like a public  
20 hearing that I can bring my people and let's challenge  
21 'em for the people against us, public hearing. I would  
22 rather that. Because I know a lot of people have a  
23 stigma against us. Just mention cockfighting everybody,  
24 wow, bad, bad, bad. But public hearing I prefer. But  
25 he told me to come, so I'm here.

1 CHAIR STONE: Very good. Everybody is  
2 welcome. Thank you so much for coming. And we  
3 appreciate your testimony. And your testimony will be a  
4 part of this process.

5 MR. DE GAMA: Thank you.

6 CHAIR STONE: Thank you so. Much, mahalo to  
7 you.

8 Lisa, next testifier, please. Excuse me one  
9 second. Clarification on the testimony?

10 (Silence.)

11 CHAIR STONE: No. Thank you again. Thank you  
12 so much.

13 Lisa.

14 MS. KAHUHU: George Lavenson.

15 CHAIR STONE: Mr. Lavenson. Thank you for  
16 coming.

17 MR. LAVENSON: Working? Okay.

18 Aloha and good evening, everybody. And I'm  
19 George Lavenson. And, first, I just want to thank all  
20 of you for the many hours you must put in on doing this  
21 and the sacrifice you're making.

22 I was in on the original West Maui Charter  
23 Group committee with Flo Wiger. And the only thing I'm  
24 really thankful about is that she's there, not me, to do  
25 all of this.

1 I think that big point that I want to make,  
2 that many of us feel, is that we would like to have it  
3 where our councilmembers are voted upon and selected by  
4 the areas they represent, by those of us in the areas  
5 they represent. And this is what representative  
6 government is. We all can't be there to make every  
7 decision, so we, in an area, select a representative.  
8 It's the way the senate is done. Our senators are not  
9 picked by other states, or our congressmen are picked  
10 not by other congressional districts. And here on Maui,  
11 we should be able to pick our own representatives.

12 There has been a time, I understand, in the  
13 past where somebody was elected and it was not the  
14 popular vote of the area that they were representing.  
15 And we've come close over here in West Maui.

16 So that's the main pitch.

17 How to do it is the difficult part. That's  
18 what you're going to have to work on.

19 On the one hand, we don't have a senate or a  
20 congress here; we have a council. And they both have to  
21 represent all the different areas like a senate would  
22 and a portion of the population issues as congress  
23 would. So there's a balance making sure all the areas  
24 of our three islands are accommodated, plus the  
25 population issue, in making it fairly proportionate,

1 too.

2 So I just wish you luck. I hope we can get to  
3 a point where we can select our own representatives the  
4 way it should be. It's difficult because of the island  
5 situation. It's also difficult, naturally, because  
6 incumbents that are in, this is the system they were  
7 elected on and change can be difficult. And I believe  
8 that's the reason that it's going up to the voters to  
9 make these kinds of selections.

10 So thank you again for working on the problem  
11 and hope you come up -- I know there are different  
12 formulas, I've seen 'em. We hope you come up with what  
13 is best for all of us on Maui. Thank you.

14 CHAIR STONE: Thank you very much, Mr.  
15 Lavenson. Commissioners, questions or clarifications on  
16 the testimony? Commissioner Moikeha.

17 MEMBER MOIKEHA: Thank you for coming tonight  
18 and for your testimony.

19 I actually read your West Maui Charter Working  
20 Group today. And as I read through it, I was looking at  
21 the number one proposal of district voting and then  
22 where you folks stated your rationale and then support  
23 of that. What I found interesting is that you pulled  
24 from previous Charter Commissions, kind of, to me,  
25 giving a little bit of history how this proposal kind of

<p style="text-align: right;">Page 17</p> <p>1 was discussed or followed through or whether or not out  2 there to the voters to vote or not.</p> <p>3 We recently were on Molokai. And I think it's  4 safe to say that they're not in support of any change.  5 But what you quoted here on Page 3 -- or what was quoted  6 were minutes from a particular individual, and it's  7 cited the organization she was with. But this was in  8 1966, and there were only 45 people in attendance. Did  9 you have anything more current, of a current survey,  10 that was done, maybe within the last year or during this  11 year that would show what the feelings of the people on  12 Molokai were expressing at this time regarding district  13 voting?</p> <p>14 MR. LAVENSON: That -- I understand we had a  15 more recent survey.</p> <p>16 MEMBER MOIKEHA: I'm asking if you did,  17 because this report doesn't say that.</p> <p>18 MR. LAVENSON: Flo Wiger knows more about it  19 than I do. She and Lance worked on that primarily. But  20 there was a recent survey that I think included all the  21 areas, and it was supportive of district voting.</p> <p>22 MEMBER MOIKEHA: Okay. So this report only  23 took it up to -- the rationale ended in 2002, so that's  24 why I'm asking. I didn't know if there was anything  25 current that went on during your deliberations and</p>	<p style="text-align: right;">Page 19</p> <p>1 CHAIR STONE: Commissioner DeLeon, you have a  2 clarification?</p> <p>3 MEMBER DELEON: Yeah. The QMark document that  4 Lance give us --</p> <p>5 CHAIR STONE: Hang on. Hang on. Mic.</p> <p>6 MEMBER DELEON: The QMark document that Lance  7 gave us is from the survey that was done last year.</p> <p>8 MR. LAVENSON: Lance had --</p> <p>9 MEMBER DELEON: It was independently. It was  10 given to us as testimony. We do have it in our  11 documentation.</p> <p>12 MEMBER CRIVELLO: And, Mr. Chair, also in  13 reference to the survey, we also requested to have an  14 explanation what type of survey QMark did.</p> <p>15 MEMBER MOIKEHA: Chair?</p> <p>16 CHAIR STONE: Yes. That explanation is  17 forthcoming to the Charter.</p> <p>18 I'll come back to you, Kay.</p> <p>19 MEMBER MOIKEHA: Okay. And I just want to  20 clarify, too -- and I understood that there was some  21 one-page thing sent out to us, and we asked for  22 explanation. But if there was a written follow-up  23 report other than just the survey, as an appendix or  24 supporting document, I would like to see that as well.  25 Because your -- your working group in this first</p>
<p style="text-align: right;">Page 18</p> <p>1 putting together of this report of something more  2 current. Because, in 1966, you did, apparently, speak  3 with -- or there were minutes of one individual who  4 spoke on behalf of supporting it and 45 that seemed to  5 be endorsing it and one person that was uncertain. But  6 that's a long time ago.</p> <p>7 MR. LAVENSON: Right. The survey that -- that  8 we are referring to was within the last two years, I  9 believe. Is that correct, Flo?</p> <p>10 MEMBER WIGER: Yes. Yes.</p> <p>11 MR. LAVENSON: Encompassed all the areas. And  12 the popular vote was to have district voting and it was  13 current. And it was also published in The Maui News.</p> <p>14 MEMBER MOIKEHA: Okay. So is there a  15 follow-up this group is going to give us? And maybe Flo  16 can answer that. Are we going to get that follow-up  17 report, or is it in here?</p> <p>18 MEMBER WIGER: I would have to go through and  19 actually see where it is. But if it's not, we can make  20 that available.</p> <p>21 MEMBER MOIKEHA: Okay. Yeah. And I noticed,  22 too, that you were one of the participants. But thank  23 you, anyways, for your testimony.</p> <p>24 MR. LAVENSON: Thank you. Yeah, I'm not as  25 knowledgeable.</p>	<p style="text-align: right;">Page 20</p> <p>1 proposal stops at 2002. I mean, a lot of time between  2 2002 and 2011. And I think the sentiments of people and  3 groups and islands may have changed. So --</p> <p>4 MR. LAVENSON: The working group I was on was  5 within the last two years. We had multiple meetings.  6 They did do a survey. Lance has that and, I'm sure, can  7 provide it for your committee so you have all the  8 numbers.</p> <p>9 MEMBER MOIKEHA: Okay. What I'm looking for  10 at this point, if there was a follow-up written  11 document, then I would like to see that also with the  12 explanation of what we were already told we received on  13 the actual survey.</p> <p>14 MR. LAVENSON: That's reasonable. I know it  15 can be provided to you.</p> <p>16 MEMBER MOIKEHA: Okay. Thank you.</p> <p>17 CHAIR STONE: Thank you. Commissioner  18 Okamoto.</p> <p>19 MEMBER OKAMOTO: Just one quick question. We  20 keep hearing the working group. How many people were in  21 the working group?</p> <p>22 MR. LAVENSON: Five of us -- or four.</p> <p>23 MEMBER WIGER: We had -- there were four  24 people in the working group. It consisted of Gordon  25 Cockett, George Lavenson, myself, and Nell Woods, from</p>

5 (Pages 17 to 20)

Certified Shorthand Reporters Maui

808-244-3376

1 --  
 2 MR. LAVENSON: Yes. And the chairman was  
 3 Lance.  
 4 MEMBER WIGER: And -- and Lance was staff --  
 5 Lance Collins was staff to the working group.  
 6 MR. LAVENSON: Right.  
 7 MEMBER OKAMOTO: Well, that -- quick question:  
 8 Was he the chairman or was he the staff --  
 9 MEMBER WIGER: No.  
 10 MEMBER OKAMOTO: -- or both?  
 11 MEMBER WIGER: No. He was staff to the  
 12 working group. We did not have -- we did not have a  
 13 chair in the sense of that someone calling the meeting  
 14 to order and so forth. There were four of us, we met  
 15 over a series of months. And Lance was staff to the --  
 16 to the group. So we would request information and it  
 17 would be provided by him as staff to the group.  
 18 MEMBER OKAMOTO: Thank you.  
 19 CHAIR STONE: Sorry. Sir, one more question.  
 20 Commissioner.  
 21 MEMBER SUGIMURA: Just curious, since we're in  
 22 West Maui and this is a West Maui Working Group  
 23 regarding the Charter, so did you have like gatherings  
 24 of community meetings so that you could get a  
 25 broad-based response? Or was it -- or how did you get

1 information to come to your conclusions besides this  
 2 QMark study?  
 3 MR. LAVENSON: I was asked to join the group,  
 4 and we didn't organize it. We did not have public  
 5 hearings as you're having now. We put our heads  
 6 together and looked at it and came up with a suggestion.  
 7 CHAIR STONE: Good. Commissioners, any  
 8 further questions or clarification?  
 9 (Silence.)  
 10 CHAIR STONE: No. Thank you, Mr. Lavenson, so  
 11 much for coming this evening. It's much appreciated.  
 12 MR. LAVENSON: Thank you.  
 13 CHAIR STONE: Thank you. Lisa, next  
 14 testifier, please.  
 15 MS. KAHUHU: Chair, our last signed-up  
 16 testifier is William Soares.  
 17 CHAIR STONE: Mr. Soares, thank you for  
 18 coming.  
 19 MR. SOARES: Hello. Aloha and good evening.  
 20 How's that?  
 21 CHAIR STONE: Very good.  
 22 MR. SOARES: Got it?  
 23 MEMBER SUGIMURA: Yeah, got it.  
 24 MR. SOARES: Aloha and good evening. Let me  
 25 say that I'm -- well, let me read my testimony. It

1 would probably be better than speaking at liberty.  
 2 My name is William Soares. And I am speaking  
 3 as a resident of Lahaina and representing no  
 4 organization or commission. I have resided in Lahaina  
 5 for 70-plus years. I have served on various commissions  
 6 and belong -- belong or have belonged to service  
 7 organizations and church councils.  
 8 I am speaking to the issue of amending the  
 9 Charter to have department heads currently selected by  
 10 commissions to be appointed by the mayor. My  
 11 understanding, the departments in question would be the  
 12 Liquor Control Director, DPS Director, Police Chief and  
 13 the Fire Chief.  
 14 These positions used to be appointed by the  
 15 mayor. It was changed in past years in the effort of  
 16 removing these persons from having political influence.  
 17 Since being selected by commissions, it seemed we have  
 18 department heads that have served the County well. By  
 19 having them appointed by the commissions, morale in  
 20 these departments have improved over the years, and the  
 21 continuity of management has made each of these  
 22 departments stable.  
 23 We have seen the Police Department become  
 24 accredited and -- and risen in stature. Morale has  
 25 improved, especially during the tenure of Chief Tom

1 Phillips. Should he have been appointed, we can only  
 2 guess the years of service as chief the County would  
 3 have been able to enjoy his talents. Maui County was  
 4 fortunate to have Chief Phillips for over 10 years of  
 5 service as the chief.  
 6 The Fire Department has a chief that has been  
 7 in position for three years. And the improvement of the  
 8 department has been remarkable. The MFD is in the  
 9 process of seeking accreditation, and the process will  
 10 take two to three years. Would this -- would this be  
 11 brought to fruition -- would this be brought to fruition  
 12 should we change chiefs in the next couple of years?  
 13 Probably not as the process is time-consuming and needs  
 14 a strong administration to give constant support and  
 15 direction, not to mention a total commitment to the  
 16 process.  
 17 Would it be safe -- would it be a safe  
 18 assumption to say the department heads by -- by  
 19 appointment by the mayor we have seen -- we may have  
 20 seen department head changes every four years.  
 21 Should there be a change in the process, would  
 22 it be possible at the next Charter review, they revert  
 23 back to the process in place now?  
 24 Gazing into the future, it could be that we  
 25 see the same exercise reoccurring in the effort of

<p style="text-align: right;">Page 25</p> <p>1 correcting any changes to this process that may happen 2 should this change -- this be changed this year. 3 One of the major functions of the Police and 4 Fire Commissions is that they perform an annual 5 evaluation of the chief. This is done by nine members 6 of the community with varying technical skills. 7 Should the evaluation be done by one person, 8 the mayor? Would the appointment be political if done 9 by the mayor? My understanding is that was the reason 10 for the change in the Charter years ago. 11 Why change the process that is not broken? 12 Leave it alone. 13 My comments are personal; however, come from 14 serving on the Police Commission for seven years, the 15 Liquor Commission and the Adjudication Board for 10 16 years, Maui Historic Commission for five years -- 17 MS. KAHUHU: Time. 18 MR. SOARES: -- and the Fire Commission for 19 six years. 20 I am wrapping up, so give me a few minutes. 21 Thank you for your time and consideration of 22 the above viewpoint and comments. Do not disenfranchise 23 the community from assisting in the process. This would 24 occur with diminished responsibility of the commissions. 25 Note further that there was testimony to</p>	<p style="text-align: right;">Page 27</p> <p>1 mentioned that's by a commission? 2 MR. SOARES: DPS. 3 MEMBER OKAMOTO: Thank you. 4 CHAIR STONE: Commissioner Crivello. 5 MEMBER CRIVELLO: Aloha, Butch. I have to ask 6 for your opinion since you served on the Police 7 Commission as well as the Fire Commission. Do you see 8 one commission better than the other? There has been 9 some discussion that Police Commission should remain, 10 but the Fire Commission should be put back to appointee 11 by the mayor. 12 MR. SOARES: I think the answer is relatively 13 simple. Okay. My memory -- and I'm only going by 14 memory at this point -- the Police Commission has been 15 in effect for probably around 20 or 25 years. The Fire 16 Commission was established about seven years ago. The 17 Police Commission has a lot of history and a lot of time 18 that they've worked as a commission. Serving on both 19 commissions -- and let me say this: I guess I was lucky 20 enough, because when I was on the Police Commission, I 21 happened to be part of the group that selected Tom 22 Phillips for chief. I think that was the smartest move 23 we ever made. And I take one-ninth of the credit. 24 Okay. 25 With regard to the Fire Department, I also was</p>
<p style="text-align: right;">Page 26</p> <p>1 eliminate the Fire Commission, a major mistake. 2 Wishing you wisdom and good guidance in your 3 decisions that will impact our County government for 4 many years to come. 5 CHAIR STONE: Thank you very much, Mr. Soares. 6 Thank you so much for your testimony. Commissioners, 7 clarification questions? Commissioner Sugimura. 8 MEMBER SUGIMURA: So I would just like to say, 9 first of all, it's very impressive, the amount of years 10 that you have given to the community. That's a lot of 11 years. Thank you. 12 And I can tell by your testimony that -- and 13 your involvement with commission work in general, seems 14 like you specialized in knowing how to -- how to 15 understand it, how to understand the Charter and your 16 responsibilities. So I'm taking your testimony 17 regarding that you're saying, regarding Police -- I 18 think Phillips did a really good job, too. And your 19 current selection and what you say about the Fire 20 Department is very important to me. As we've heard, you 21 know, different. 22 So I want to thank you for coming forward. 23 CHAIR STONE: Commissioner Okamoto. 24 MEMBER OKAMOTO: One question. You had 25 mentioned Liquor Control, what was the second one you</p>	<p style="text-align: right;">Page 28</p> <p>1 on the commission when we selected Chief Murray. Okay 2 The process was relatively similar. 3 And for -- for the comment that was made in 4 the morning paper, Maui News, relative to disassembling 5 the Fire Commission, I, basically, feel that's a 6 mistake. The Fire Commission is the one group, along 7 with the Police Commission, that they do evaluate the 8 chief. The evaluation is not done by the Council or the 9 mayor. It's done by nine individuals and they evaluate 10 the chief. If the evaluation is marginal, then, 11 naturally, the chief will be informed that his 12 performance is marginal. If he's doing an outstanding 13 job, there's no question that he would remain there. 14 The other major function of the -- of the two 15 commissions -- two -- the two other major is, number 16 one, they do select the chief, which is nonpolitical at 17 this point in time, and, number two, they evaluate the 18 budget as the department prepares it. Now, I can -- I 19 can tell you that some of you probably are very familiar 20 with the process. 21 The Fire Department and the Police Department 22 prepare a budget, they present it to their commission. 23 Their commission reviews it, makes adjustments upwards 24 or downwards, and that goes to the mayor. The mayor 25 makes adjustments upwards or downwards and it goes to</p>

7 (Pages 25 to 28)

Certified Shorthand Reporters Maui

808-244-3376

1 the Council. And then the Council makes adjustments up  
2 or downwards. And guess what? That's the budget. So  
3 what started off at the department may be drastically  
4 different than what the eventual process is -- or the  
5 eventual budget is. So maybe if we talk about the  
6 Police Commission and the -- and the Liquor Commission,  
7 the budget process, they're just one segment. I don't  
8 know that they have a major input in the final, because  
9 the major input is going to be between the mayor and the  
10 Council.

11 But if -- to me, if I see taking away the --  
12 the Fire Commission, and having it -- having that person  
13 be appointed by the mayor -- I don't know how many of  
14 you have been here for however long, but I can tell you,  
15 in about the last 25 years, it seems like, for a while  
16 there, we were getting chiefs every four or every eight  
17 years, you know. I can -- I can think about five guys  
18 that were chiefs, you know.

19 And the process with the Police Department was  
20 sort of similar. And then, all of a sudden -- you know,  
21 we had Howard Tagomori for many years, then we got Tom  
22 Phillips for 11 years, and, hopefully, we got Gary  
23 Yabuta for as long as he wishes to serve.

24 I don't know if I answered your question.

25 CHAIR STONE: Commissioner DeLeon.

1 deliberately, I made a point of going, I had to go  
2 through security, I had to, basically, sign in to the  
3 police station, and then you have to go upstairs to this  
4 secured area where the chief's office is. And,  
5 basically, the meeting's held in the chief's office. I  
6 found that pretty limiting for the public.

7 What did the Police Commission -- how did the  
8 Police Commission actually reach out to the public so  
9 that there's a connection between -- because that's --  
10 that's the public's connection to the Police Department.  
11 Not the mayor. I mean, people are always calling the  
12 Mayor's Office and making complaints about the Police,  
13 but there is no place where the fact goes, the Police --  
14 the mayor can pass it down, but it doesn't really --  
15 sometimes sends it to the Police Commission and  
16 sometimes sends it to the chief. But that's like  
17 secondhand; it's not going to be straight. Straight  
18 would be from the public to the commission. But if the  
19 commission -- I mean, if the commission's meeting in the  
20 -- well, the other thing was about -- at the police  
21 station was no parking. I mean, you would have to hunt  
22 to find a parking space there. So it would be really  
23 hard for the public to get in there. How can we get the  
24 Police Commission out of the chief's office and out to  
25 -- I mean, in the Charter, could you see a place where

1 MEMBER DELEON: Thank you for coming tonight,  
2 Butch, to provide us an opportunity to get a lesson on  
3 how things work. Ever since you served on the board,  
4 the Police and Fire, have you ever seen -- and Liquor,  
5 have you ever seen the director or the chiefs actually  
6 get a poor evaluation?

7 MR. SOARES: I can say we -- I've seen a  
8 marginal evaluation.

9 MEMBER DELEON: A, one?

10 MR. SOARES: I'm sorry?

11 MEMBER DELEON: One?

12 MR. SOARES: One in those years, yes.

13 MEMBER DELEON: Okay. So we have outstanding  
14 leadership, then?

15 MR. SOARES: I would -- I would say yes.

16 MEMBER DELEON: Okay. Police Commission -- I  
17 was involved with Maui County government at one point  
18 for like 25 years, in some form or another, reporter,  
19 community activist, and part of administrations. And I  
20 came to realize -- at the point where there was two  
21 shootings in a row, the one in Paia and the one on the  
22 beach -- and in Kihei where the police officers had to  
23 take people down, unfortunately, I came to realize I've  
24 never been to a Police Commission meeting. I mean --  
25 and when I did go to the Police Commission meeting

1 it says twice, three, four times a year they have to  
2 meet out in the public?

3 MR. SOARES: You threw a lot of comments out  
4 there, so let me try and --

5 MEMBER DELEON: That's --

6 MR. SOARES: That's on you.

7 MEMBER DELEON: How do we open it up so the  
8 public can get there?

9 MR. SOARES: Okay. First of all, if you as a  
10 citizen have a complaint about a particular fireman, if  
11 you called the --

12 MEMBER DELEON: Police Chief, I'm talking  
13 about.

14 MR. SOARES: I'm sorry, the police officer.  
15 There is a secretary for the Police Commission. She has  
16 a form that you can fill out. And if you don't want to  
17 go to the police station -- I'm only telling you what I  
18 remember when I was there, okay, so if they changed the  
19 process -- but when I was there, if you wanted to file a  
20 complaint about a police officer and you didn't want to  
21 go to the Police Department, you went to the library and  
22 you picked up the form, you mailed it in to the  
23 attention of the Police Commission, she would open it,  
24 and you would come to the commission. When the  
25 commission got that question or -- or -- or wanting to



<p style="text-align: right;">Page 33</p> <p>1 have something investigated, an officer investigated,  2 the Police Commission at that time -- I'm only telling  3 you what I know during my tenure. At that time we had  4 an inspector. And we gave that to that inspector and  5 said, research this complaint. Okay. And he was a  6 retired policeman, not from Maui County. Okay. Then he  7 went out and researched the complaint and he brought it  8 back to us. If there was justification for the  9 complaint, then we would refer that to the chief and  10 tell the chief, we know about this complaint, now you --  11 you -- you do your own investigation and come back to  12 us.</p> <p>13 Now, as far as the meeting -- the meeting  14 location, you know, if -- if what you're saying is still  15 in practice, then I hate to tell you, but at least the  16 Fire Department is a little bit more liberal in their  17 thinking because, four or five times a year, we meet at  18 the David Trask Building. It's not in -- not in the  19 Fire Department; it's at -- it's a public place. It's  20 -- the meetings are posted like any other  21 commission/department meeting. And, you know, we've had  22 -- we've had people come to our -- our meetings,  23 especially at the time where we were doing the  24 transition from one chief to the other. So as far as  25 how you get it out of the Police Department, tell the</p>	<p style="text-align: right;">Page 35</p> <p>1 the Police Commission.</p> <p>2 MR. SOARES: When I was on the Police  3 Commission, we -- we had meetings in different areas.  4 We met in Lahaina -- we met in Lahaina one night. And  5 we had three less people than we have right now. Okay.  6 We met up in Haiku once. And there were like five  7 people. We went to Lanai and we met -- we met in Lanai.  8 We went to Molokai and met in Molokai. This is the five  9 years that I was on the Police Commission. I don't want  10 to tell you that we went every year, but my recollection  11 is like it was almost every other year, maybe. And  12 maybe every year. I cannot recall.</p> <p>13 I don't think, right now, any of the  14 department -- you know, the Police or the Fire  15 Commission has the wherewithal to probably go to Molokai  16 or Lanai because they got no money. But the point is if  17 the Commission itself is -- is taking the first step and  18 has some kind of initiative and creative thinking, yeah,  19 they can go to Haiku and they can meet and, you know,  20 wherever. Nothing restricts them from that.</p> <p>21 MEMBER DELEON: Butch, do you think the  22 chief's office is a public place?</p> <p>23 MR. SOARES: I do.</p> <p>24 MEMBER DELEON: Okay. For the Fire  25 Commission, how much public input, interaction do you</p>
<p style="text-align: right;">Page 34</p> <p>1 Police Commission to go meet up at David Trask Building.  2 They got a beautiful room. That's my answer to the  3 solution [sic].</p> <p>4 MEMBER DELEON: So if you see something in the  5 Charter that says that the Police Commission has to meet  6 in public, say quarterly?</p> <p>7 MR. SOARES: I don't know if it says that in  8 the Charter.</p> <p>9 MEMBER DELEON: No, no, no, no. I'm  10 suggesting that.</p> <p>11 MR. SOARES: Well --</p> <p>12 MEMBER DELEON: But, you know, one suggestion  13 floating around out there right now that says it should  14 be under the mayor because there's no political  15 oversight. And -- and I don't necessarily agree with  16 that. I mean, I don't think -- I think Police should be  17 independent of the political system and it should be a  18 commission running it. But, to me, right now, the  19 Commission's isolated. So you have inspector go out on  20 complaints, but what about general stuff like there's  21 not enough cops on the road, they're eating too many  22 doughnuts, whatever, it's -- you know, it's just that --  23 that contact with the public, with the general community  24 you're serving. And, you know, this is not about you;  25 this is about what I observed a couple times I went to</p>	<p style="text-align: right;">Page 36</p> <p>1 get?</p> <p>2 MR. SOARES: I'll be candid with you and tell  3 you that I think the biggest challenge for the Fire  4 Commission -- and I'm -- this is -- I'm back on again.  5 I was on for five years and I was off for two or three,  6 and now I'm back on again. And this is my third  7 meeting. I think the biggest problem -- or situation  8 relative to the Fire Commission is the fact that,  9 because it's so new, I don't think most of the community  10 are aware that it is in existence. Okay. We try to --  11 you know, to get the word out. I have invited a couple  12 of people to come to the meeting that I felt would be  13 able to get the word out, whether they were reporters or  14 -- or just civic-minded people.</p> <p>15 But to -- to disassemble the Fire Commission  16 for whatever reason there is -- whatever reason you guys  17 come up with for the Fire Commission, I tell you what,  18 take the other three guys and do the same thing. Get  19 rid of 'em all. Get rid of all the commissions. You  20 know, I don't know how much you will save on business  21 cards. Probably a couple hundred bucks. So --</p> <p>22 MEMBER DELEON: I'll be honest. I do have a  23 concern about the Fire Commission, about the mayor not  24 selecting the Fire Chief. And my -- my concern is the  25 lack of political -- political oversight of the</p>

9 (Pages 33 to 36)

Certified Shorthand Reporters Maui

808-244-3376

1 department that doesn't have police powers. But they do  
2 have inspectors that go out to the public. And your  
3 inspectors are known for being sometimes highhanded, and  
4 sometimes, you know, really kind of pushy for public  
5 safety purposes, but push it past the point of being  
6 logical.

7 And in the Mayor's Office, I've been there  
8 when the Mayor's Office used to have authority over the  
9 Police -- the Fire Department. And we pulled the  
10 inspectors back and told them, you know, that they were  
11 being carried away. That Mayor's oversight is missing  
12 in -- in this arrangement. The mayor cannot order  
13 anybody around in the Fire Department; you got to go  
14 through the chief. And chief can ignore him because  
15 he's not hired by the mayor; he is hired by the Fire  
16 Commission. That -- that part of the aspect is  
17 something that concerns me. And I've seen it  
18 personally. Seen the case happen where -- where the  
19 inspectors were out of line, and the chief wasn't  
20 pulling them in. It was the Mayor's Office pulling them  
21 in.

22 So, I mean, that's -- that's my concern.

23 MR. SOARES: You want me to make my comment on  
24 my observations on that?

25 MEMBER DELEON: Yeah.

1 MR. SOARES: Okay. I can tell you that,  
2 before the Police -- before the Fire Commission was  
3 organized -- and I can go back to 10 or 15 or 20 years,  
4 when the Fire Chief was under the direction of the  
5 mayor, I was witness to certain issues that came up that  
6 was mandated through the inspectors to the developer.  
7 You need to do this before you gonna get your  
8 certificate of occupancy, however petty it was. And the  
9 guy two doors away was getting his certificate of  
10 occupancy just, basically, because he was a friend of  
11 somebody. I agree with you, in the sense that if we go  
12 back five or 10 years, the Fire inspectors, there were  
13 challenges to their authority.

14 I sincerely believe that with Chief Murray,  
15 that has gone away, because his point of tolerance is  
16 very limited. And I can tell you that there are times,  
17 lately, that, all of a sudden, he's dealing with the  
18 Fire Fighters Union because they're not accepting the  
19 fact that, hey, your guys are not doing this according  
20 to what we mandate. And he's -- and he's pulling in the  
21 renegades, which is all well and good. That's his job.

22 Now, if the -- if the renegades are -- are  
23 getting directions from the mayor or somebody else up  
24 along the way, who is gonna -- who's gonna be the --  
25 who's gonna be the bad cop? There's going to be no cop

1 at that point because it's a power of one. I -- I --

2 CHAIR STONE: Thank you.

3 MR. SOARES: I don't -- I don't agree with  
4 this appointment.

5 CHAIR STONE: Commissioner DeLeon, one second,  
6 we have a few questions coming from this side of the  
7 table, but you're welcome to come back and go back for  
8 further questions.

9 Mr. Soares, thank you for your patience. It's  
10 your expertise that we're --

11 MR. SOARES: Yeah.

12 CHAIR STONE: -- we're happy to have here.  
13 So, unfortunately, you're gonna be sitting there for a  
14 little while, if you don't mind. We have a question  
15 from Commissioner Moikeha.

16 MEMBER MOIKEHA: Thank you for your testimony  
17 One question. Yes, we did have a testifier who was  
18 part -- initially part in helping form the commission  
19 and, I believe, a fire captain retired. And he was at  
20 this point where he felt that it should be abolished.  
21 The example that he gave to me was more something that  
22 could be resolved by keeping the commission intact. And  
23 that example was, if I remember correctly, he felt that  
24 when firefighters came in that they didn't have a clear  
25 understanding of what they needed to do to advance

1 within that department, maybe up to a level of a chief  
2 or whatever. You know, to me, that is something that  
3 you can fix internally. I -- I don't really see it as  
4 justification to abolish a whole commission because of  
5 that as an example. So what I'm asking you now is  
6 within these commissions as they are now defined, their  
7 authority, their powers, what they shall do, in the  
8 current Charter, is there anything that you see that  
9 needs to be strengthened to maybe help, you know, the  
10 goal of what you're trying to do in keeping it impartial  
11 and keeping it nonpolitical and keeping it straight up  
12 and doing a good job that they're supposed to be doing?  
13 And if you don't have anything specific right now, if  
14 something comes to you later, having served on all these  
15 commissions, you know, we welcome that. But I just  
16 would ask you to think about that, is there anything  
17 that we need to do more to strengthen the authority of  
18 the commissions.

19 MR. SOARES: The way -- the way the Charter is  
20 written now, the commissions -- and I can only speak to  
21 the Fire and the Police -- but the way the Charter is  
22 written now, the limitations that the commissions have  
23 relative to the operation of the department is somewhat  
24 limited. Okay. And I think I can understand the reason  
25 for that. Because if the commission, all of a sudden,

<p style="text-align: right;">Page 41</p> <p>1 is the people that are telling the Fire Chief, hey, you  2 gotta do this and you gotta do that, he may -- that  3 commissioner may be only responding because, hey, you  4 know, my neighbor's son is not getting promoted and what  5 the heck are you guys doing. Well, maybe the chief  6 evaluated the guy, and he's not entitled to be promoted.  7 But I do know that within both the Fire and  8 the -- the Police Departments -- and when I speak to the  9 Police Department, I want you to understand that I've  10 been away from it for about seven or eight years. So  11 what has happened over that time, I couldn't tell you.  12 But I do know that there is a testing -- there is a  13 testing process. And, eventually, my understanding is,  14 DPS is the people that say, okay, you need a captain,  15 these are the three guys, you can pick from one of the  16 three, but they -- they met -- say they're the top three  17 out of the 10 or 20 that applied. So they've narrowed  18 it down for you. And to me, the chief -- you know, the  19 chief doesn't have that much power to say, hey, you  20 know, I want my cousin to be.  21 Now, I can tell you, in all honesty, the old  22 system, the Fire Chief had his son and his nephew and  23 his whatever that were working there. And I can refer  24 to one particular case where the Fire Chief's son took a  25 boat out, County Fire Department boat, and he went</p>	<p style="text-align: right;">Page 43</p> <p>1 not sure. But from just Joe Blow on the street, my  2 understanding is the manager of the County of Maui is  3 the Managing Director. All the department heads are  4 under him, and he reports directly to the mayor. Okay.  5 So we have somebody that supposedly is in that position  6 and are we utilizing him properly. And maybe the answer  7 is maybe Civil Service, DPS, they're the person that  8 should select the Managing Director and give him a term  9 based on good performance. And if he does poorly, he's  10 off.  11 MEMBER MOIKEHA: Thank you very much. I  12 appreciate your comment.  13 CHAIR STONE: Commissioner Baxa, please.  14 MEMBER BAXA: Mr. Soares, I would like to  15 personally thank you for coming today. I heard from  16 you, and as a man who has been involved, employed, in  17 fact, in these two departments, as you said, the Police  18 not employed, but as a commissioner, Police Commissioner  19 and Fire Commissioner. I like to hear from experience,  20 because I value experience. And I have heard from you.  21 There is one question that bothers me a little bit. Not  22 so much from your point of view, but from the current  23 language of the Charter. I hope this is what is in the  24 current Charter. It says: On Section -- I don't know  25 what article is this -- Article 7, Section 7-5, Powers,</p>
<p style="text-align: right;">Page 42</p> <p>1 fishing. And guess what? He kept the fish and he kept  2 his job, because the Fire Chief was responsible to the  3 mayor and, therefore, the mayor said, leave the guy  4 alone. And they did.  5 MEMBER MOIKEHA: Okay. Thank you for that. I  6 just have one more question. In this West Maui Charter  7 Working Group, are you familiar with this report at all?  8 MR. SOARES: Not at all.  9 MEMBER MOIKEHA: Okay. Then let me just throw  10 this out. One of their proposals dealt with a county  11 manager. And what the county manager would do, would  12 actually manage the County, something similar to a CEO  13 of a corporation, and the mayor would be more ceremonial  14 and possibly, in this suggestion of this report, is a  15 non-voting chair of the Council. What I like about  16 something -- or looking at something as a county  17 manager, it does take politics out of it, too, in my  18 opinion. Kind of like what these commissions are doing,  19 is taking the politics out of it. Have you given that  20 any thought as far as a county manager and having that  21 put into the Charter?  22 MR. SOARES: I'm going to give you my opinion.  23 Okay. It's only one man's opinion. And I don't  24 understand the bureaucracy of the upper level of our  25 County. So for me to tell you one way or the other, I'm</p>	<p style="text-align: right;">Page 44</p> <p>1 Duties and Functions, this pertains to the mayor. Under  2 Section 1, states, "Exercise supervision, directly or  3 through the Managing Director, over all departments,"  4 and Article 8 of this Charter, "and other agencies as  5 provided by law." The question that I have with this  6 provision, is this: "The mayor shall have direct  7 supervision over all the departments." So that would  8 include the Police -- the Police Department, the Fire  9 Department. Now I understand that, for example, the  10 Police Commission, they have the power of selecting and  11 firing the chief. So now that sentence says, the mayor  12 has direct supervision over the Police or the Fire  13 Department. What kind of -- do you think there is  14 something wrong with that, when the mayor has no say  15 about in the selection and firing of these departments?  16 I do not mean to say that the commission --  17 commissions -- these two commissions are not functioning  18 well. In fact, I think you have provided me with some  19 voice of experience. Not some, but a good part.  20 The question that I have for you is, would you  21 then suggest that this provision in the current Charter  22 be amended to say, like this, except -- you said that  23 you are concerned about the Police and the Fire  24 Departments. Should it say, then, "Except for the  25 Police Department and the Fire Department, the mayor</p>

11 (Pages 41 to 44)

Certified Shorthand Reporters Maui

808-244-3376

1 shall exercise supervision directly over the  
2 departments." Are you recommending that this language  
3 should be changed?

4 MR. SOARES: You know, I read the Charter.  
5 And, unfortunately, that's why you're an attorney and  
6 I'm not. Okay. Because I read each item throughout and  
7 I never reverted one back to the other. Okay. What  
8 you're saying the Charter is saying, to me, it should be  
9 amended to take the four, not just the two, the four,  
10 because --

11 MEMBER BAXA: Which four?

12 MR. SOARES: The four meaning DPS --

13 MEMBER BAXA: Oh.

14 MR. SOARES: -- Liquor, Police and Fire. The  
15 mayor cannot fire the Liquor Director. The Liquor  
16 Director is appointed by the Liquor Commission. Now,  
17 one of the comments that I saw along the way that said  
18 the Liquor Adjudication and -- and the -- the Liquor  
19 Adjudication and the Liquor Commission should be put  
20 together. I agree with that because the Adjudication is  
21 penalizing somebody and the Liquor Commission, on the  
22 other end, is the guy that's giving or taking away the  
23 permit. And they're not working in sync. To me, if  
24 somebody comes to the Liquor Commission, they get the  
25 permit, they violate the permit, the commission should

1 has a question for you.

2 In a number of locations that we've been going  
3 to, there has been concern about what has been presented  
4 to us as the autonomy of the Liquor Control. And that  
5 was a question, for example, where we -- we noticed that  
6 oftentimes Liquor Commissioners are allowed to move over  
7 to Liquor Adjudication Board and vice versa back and  
8 forth. So it's literally the same people running the  
9 commission and the Adjudication Board for the last 20  
10 years or so. Comments on that?

11 Because we actually have an educational thing  
12 coming up at one of our normal meetings to explain how  
13 the Liquor Commission and how the Liquor Adjudication  
14 Board works, so we understand. How would you -- how  
15 would you respond to a concerned citizen about the  
16 seemingly autonomous Liquor Commission or Liquor Control  
17 system?

18 MR. SOARES: Let me -- let me say right up  
19 front, so that there's no mystery, and somebody finds  
20 out there's a skeleton in my closet, okay, I went from  
21 the Liquor Adjudication Board to the Liquor Commission,  
22 and then I went to the Fire -- I mean the Police  
23 Commission. But I think that -- and probably Dave  
24 DeLeon could answer or give you guys the history behind  
25 it better than me. Every -- every year, there's a

1 take away the permit, not expect the Adjudication Board  
2 to do it. So that's -- that's the only point that I see  
3 relative to Liquor Department [sic] and Adjudication  
4 Board. I don't know if you are all aware, but they are  
5 two commissions.

6 MEMBER BAXA: Yes, I'm aware of that. But  
7 since you said that you were really concerned about the  
8 Fire and Police Commissions, so that's why I zeroed on  
9 these two commissions.

10 MR. SOARES: Well, I -- my comments have been  
11 predominantly relative to the Fire and the Police  
12 because I'm very familiar with it. I think that the  
13 four -- the four commissions that do the hiring and the  
14 firing of that particular department, I believe those  
15 four commissions all should stay in place.

16 MEMBER BAXA: Yeah. So if I understand  
17 correctly from you, then the provision of the current  
18 Charter should be amended to reflect what you are  
19 testifying today?

20 MR. SOARES: I think what it should do is  
21 clarify, you know, under the Mayor's title except for  
22 these departments which he cannot terminate the  
23 department head.

24 MEMBER BAXA: Thank you very much.

25 CHAIR STONE: Mr. Soares, thank you. Chair

1 notice put out that says anybody interested on being any  
2 board or commission, fill it out, send it in. Well,  
3 naturally, when the -- the forms are reviewed, it's  
4 like, hey, you know, this guy was on the Police  
5 Commission and he's been away for three or four years,  
6 hey, you wanna be back on the Police Commission. And  
7 nine times out of ten, the answer is gonna be yes.

8 You know, when they told me to go back to the  
9 Fire Commission, I -- I thought this is great, only  
10 because I not only understand, I spent five years  
11 learning it. I think the important thing as the County,  
12 the County should -- they should have either an  
13 orientation or a training of every new commissioner.  
14 Okay. When you get appointed, and you got to go get  
15 your notary swearing in that this is your whatever,  
16 that's all it is. The next thing they tell you is, show  
17 up at the next meeting, you know. I mean, you know, do  
18 you know what color the firemen's uniform is, nah,  
19 doesn't matter, I'm here.

20 And the point, I guess, I'm alluding to is  
21 when you have new people on a commission, they should  
22 have an orientation. I don't want to tell you how long  
23 ago this goes back, because I'm dating myself, but when  
24 we had a mayor by the name of Linda Lingle, every time  
25 you were a new -- new commissioner, you had an

<p style="text-align: right;">Page 49</p> <p>1 orientation and she told you what was expected. And  2 it's kind of funny because I was involved in -- in a  3 comment one time where she and I had to have a minor  4 confrontation of understanding where she told us at the  5 orientation, your position is not political. You are  6 there to perform the service for the County, blah, blah,  7 blah. Well, somewhere down the road, all of a sudden,  8 there was a little issue of, gee -- you know, gee,  9 Butch, I think it would really be nice if you guys  10 headed in this direction. And I was like, I thought  11 this is not political. And if I go the other way, then  12 what happens to me, right? And, unfortunately, I went  13 the other way and I -- I guess I didn't get the bullet.  14 CHAIR STONE: The reason I bring that up as  15 well is because the words that I was hearing was  16 accountability. For example, we had some people come  17 out that were restaurant owners, and they said, hey, if  18 Liquor Control is coming down so hard on me, I have  19 nowhere to go, I am just stuck with this enforcement  20 whether it's -- it's fair or not. There's nowhere for  21 them to take the issue. And what it boiled down to was  22 these people said, I want to be able to go to the mayor  23 and I want the mayor -- to be able to say, mayor, these  24 people are doing this to me and it feels very unfair, I  25 want the director to be held accountable or the</p>	<p style="text-align: right;">Page 51</p> <p>1 know, 14 or 15 citations. And the manager, naturally,  2 was upset. When we found out what really happened, we  3 asked the director to dismiss all the citations. And,  4 initially, it was no, and then, eventually, it was yes.  5 But the thing is the Adjudication Board and  6 the Liquor Commission, they both have their own legal  7 counsel. So if you have a commission that is sincere  8 and dedicated to the community, and not just signing up  9 because I want to be on this commission because I know  10 can go Baltimore or Kauai, or wherever it is, then --  11 you know, that guy shouldn't be on the commission.  12 And I've seen members of the commission that  13 they don't read their minutes. You know, you come to  14 the meeting and you got a question on the minutes, and  15 they're like, oh, I didn't know we said that. That's  16 what --  17 But in answer to your question, the commission  18 can be authoritative because they have the power and the  19 liberty to make decisions. It's how -- what is their  20 mindset as to how aggressive they want to be or how  21 thorough they want to investigate it.  22 CHAIR STONE: So question: How often, for  23 example, besides retirement, has any of these  24 commissions replaced one of the chiefs or directors?  25 Say -- let's take the Police Commission. How many</p>
<p style="text-align: right;">Page 50</p> <p>1 enforcement agency to be held accountable. So that was  2 the issue we are hearing on the opposite side of what  3 you're arguing about keeping the commissions. Where is  4 the accountability?  5 MR. SOARES: Let me -- let me say this. And I  6 can only speak, again, from something that I  7 experienced. There was a 4th of July years ago and  8 Hyatt and Royal Lahaina and Kaanapali Beach all had  9 major functions for the 4th of July. One was doing a  10 kalua pig whatever fest. The three properties had big  11 events. I was on the Adjudication Board. All of a  12 sudden, we get this report that says we are going to be  13 hearing from one of the hotels that got cited for liquor  14 violations. And, initially, you say, okay. The  15 Adjudication Board questioned all the inspectors that  16 were working that day. And because the Adjudication  17 Board at that time, seemingly, was somewhat aggressive,  18 and they were looking at the Liquor Director as somebody  19 that worked for them -- not worked -- you know, they  20 were working for the director. The point is, when we  21 did the inspection and the questioning and the  22 interrogation, we found out that the four inspectors  23 went to one property and they were there all day and  24 half the night. So the other two properties didn't see  25 any liquor inspectors. Just one property got, I don't</p>	<p style="text-align: right;">Page 52</p> <p>1 times, in your knowledge, has the Police Commission  2 actually replaced the chief when he wasn't retiring? Or  3 did we have perfect chiefs of police in the history of  4 Maui County?  5 MR. SOARES: I probably would end up speaking  6 out of school. And maybe I'll have Archie go start my  7 car. Okay. But I can tell you that we've had -- when I  8 was on the Fire Commission, we had a chief that his --  9 his evaluation was, like I say, marginal. And we were  10 making more demands on him even after we evaluated him.  11 And the second evaluation wasn't any better than the  12 first. And I think -- and I'm just telling you I  13 think -- the writing was on the wall and, therefore, he  14 retired. Okay. He had 35 years or 30 years service.  15 Okay. And I don't want to say that, because of his  16 evaluations or whatever, he retired, I'd like to think  17 not, but I am sure that it had a part of it.  18 As far as the Fire Chiefs -- I mean, the  19 Police Chiefs, I gotta go way back because, over the  20 years, we had -- we had Tom Phillips that was there for  21 12 or 13 years, and I think Howard Tagomori was there  22 for -- I don't know -- I want to say eight or 10 years.  23 So, you know, I mean we talking about 20-years-plus.  24 But I do know that, when I was a much younger person,  25 that we had a chief that got in trouble, and the mayor</p>

1 called him in and took away his badge.  
 2 CHAIR STONE: But that was the mayor?  
 3 MEMBER DEREGO: Mr. Chair?  
 4 MR. SOARES: That was the mayor because at  
 5 that time the commission was not in place.  
 6 CHAIR STONE: And for Liquor, any idea on how  
 7 long, say, a Liquor Director has been removed or  
 8 changed?  
 9 MEMBER DEREGO: Mr. Chair?  
 10 MR. SOARES: I don't think a Liquor Director  
 11 has been removed, but I -- see, the other thing that --  
 12 you know, the other thing to my testimony, which I think  
 13 is important for you to remember is, are these  
 14 department heads being evaluated. In all the time I was  
 15 on the Liquor Commission and Adjudication Board, the  
 16 Liquor Director never got an evaluation. So, I mean, if  
 17 he's got one in the last few years, I don't know about  
 18 it. And then if they're doing it, that's fine.  
 19 MEMBER DEREGO: Mr. Chair, I have a question.  
 20 CHAIR STONE: Thank you so much. Thank you.  
 21 Please, go ahead, Mr. DeRego.  
 22 MEMBER DEREGO: I think what's being focused  
 23 on here -- and I've been listening for a few minutes --  
 24 is the fact that -- and I think you used the words  
 25 yourself -- that you could suggest or give a hint to the

1 Fire Chief that he should go, but there's nobody who can  
 2 actually say, "You're fired." And --  
 3 MR. SOARES: No. We can say, "You're fired."  
 4 MEMBER DEREGO: You can?  
 5 MR. SOARES: We can. But when we say, "You're  
 6 fired," we have to have just cause. Okay?  
 7 MEMBER DEREGO: Okay.  
 8 MR. SOARES: You know how just cause is?  
 9 You're sitting next to somebody that, you know, would  
 10 probably defend the outgoing Fire Chief because of  
 11 unjust cause.  
 12 MEMBER DEREGO: Okay. And this gets back to  
 13 the Chair's original question. Has anybody ever been  
 14 fired for just cause? Which --  
 15 CHAIR STONE: In your knowledge?  
 16 MR. SOARES: Well, and as I said, not to my  
 17 knowledge. I don't think they get fired. I think that  
 18 -- I think -- and I want to emphasize think -- that I  
 19 can -- I can think of two instances where a department  
 20 head left because of some writing on the wall. Now,  
 21 would he have been fired? Yes, no, maybe so. But he --  
 22 he left before we got to that stage.  
 23 MEMBER DEREGO: So you're more comfortable  
 24 with a process that's more moral suasion, in a sense,  
 25 right, more moral persuasion in the sense of evaluation

1 and giving them the writing on the wall than you are  
 2 with an administrative kind of process where the mayor  
 3 can actually hire or fire the Police Chief or the Fire  
 4 Chief? You're more comfortable with a process like  
 5 that?  
 6 MR. SOARES: I am because, somewhere years  
 7 ago, before the commissions were in place, the mayor  
 8 fired one of the Police Chiefs. And then by the time it  
 9 was all over, the chief ended up retiring and the County  
 10 paid him a substantial bonus for retiring rather than --  
 11 I guess, when they went to court, they found out that,  
 12 gee, you couldn't fire this guy. So I think, with a  
 13 commission, you got nine people that are deciding do we  
 14 fire this guy and do we have just cause, and we talk to  
 15 our legal counsel. I'm not saying that the mayor is an  
 16 arbitrary person, but if the mayor says, "Hey, guess  
 17 what, Dave, you're gone," who's -- who's going to be the  
 18 one to deal with it? The one gonna be dealing with it  
 19 is going to be the Corporation Counsel that got to go  
 20 get the mayor off the hook, if he is on the hook.  
 21 CHAIR STONE: Very good. Thank you.  
 22 Commission Okamoto.  
 23 MEMBER OKAMOTO: Just one quick question. On  
 24 the Police Commission, how much time would you say is  
 25 spent on personnel where you would be having executive

1 sessions? You're talking personnel issues, possibly an  
 2 officer that's -- yeah, disciplinary type of thing. How  
 3 much time in your regular year of meetings would be  
 4 spent on that kind of thing?  
 5 MR. SOARES: I think, most of the time I was  
 6 on the Police Commission and we went into executive  
 7 session, we were dealing with issues from the community.  
 8 You know, John Doe said the police officer came and  
 9 handcuffed me and beat me up and dah, dah, dah, dah,  
 10 dah. And that came to the commission. Sometimes, and  
 11 most of the time, we -- we do the investigating, and  
 12 whatever the resolution was, then you would go to the  
 13 chief and the disciplinary action was done by the chief.  
 14 We -- we didn't discipline anybody directly. That's --  
 15 MEMBER OKAMOTO: Was that very often that you  
 16 would have those kinds of cases?  
 17 MR. SOARES: Probably two or three times a  
 18 year.  
 19 MEMBER OKAMOTO: Okay.  
 20 CHAIR STONE: Thank you. Commissioner Wiger,  
 21 question.  
 22 MEMBER WIGER: Yes. Going back to the issue  
 23 of just cause, because you indicated that you felt, with  
 24 the commission, before they would dismiss someone, they  
 25 would have to be able to demonstrate just cause in terms

<p style="text-align: right;">Page 57</p> <p>1 of dismissal. Would that not also apply to a mayor in  2 terms of dismissing someone? Would they not also have  3 to be able to demonstrate just cause to do that?  4 MR. SOARES: That's true. But with the  5 mayor -- and I'm not -- I'm not trying to point a finger  6 at any mayor in particular, but there's been situations  7 where a mayor is saying, hey, you, you know, and then,  8 later on, it goes to legal -- there's legal  9 ramifications and then -- then it's either yea or nay.  10 And if it's yea, half of the time you end up taking the  11 person back only for him to retire. And then he laughs  12 at you.  13 CHAIR STONE: Commissioner Moikeha.  14 MEMBER MOIKEHA: Thank you for staying so long  15 for these questions. And I really think that we all  16 need to go back and read exactly what you are charged to  17 do. Because when I look on Page 19 of this Charter, on  18 Chapter 7, on the Fire Commission, one through seven  19 clearly defines your role, and that's you adopt rules --  20 we as a commission adopt our rules to function under --  21 you review and submit the -- to the mayor the  22 department's request for annual appropriation -- we're  23 dealing with funding. And so when it was cited as to  24 the powers of -- on Page 12 that Judge Baxa had cited  25 earlier, as far as supervision, that's still</p>	<p style="text-align: right;">Page 59</p> <p>1 this. We have asked the Department of Fire, the Chief,  2 to come and talk more about operations. Because the  3 most important thing here at the end says, "Except for  4 purposes of inquiry or as otherwise provided in this  5 Charter, neither the commission nor its members shall  6 interfere in any way with the administrative affairs of  7 the department." And, once again, the mayor still has  8 supervision over that department. So, you know, this is  9 really getting down to who can hire and fire. And I  10 think it makes a lot of people nervous.  11 MR. SOARES: I guess I didn't communicate  12 myself properly, but the point -- I guess one of the key  13 points that I was trying to allude to is the fact that  14 the Fire Commission and the Police Commission and the  15 Liquor Commission and the DPS, Civil Service Commission  16 they select their department head. Okay.  17 If you go back further into the history, you  18 will find that certain mayors were very dictatorial.  19 And if you were one of those people that didn't have  20 your bumper sticker, his -- his bumper sticker on your  21 car, hey, he could pull the plug on you and what you  22 gonna do. And so the point, I guess, is the Police and  23 the Fire Commission especially, can evaluate the chief.  24 If he's not -- doing poorly, they can certainly put him  25 on notice and tell 'em, hey, you got 90 days or you got</p>
<p style="text-align: right;">Page 58</p> <p>1 supervisory, it comes under the mayor. You can only  2 recommend. You review operations of the department.  3 You're doing it as a recommendation for change. Nobody  4 says they have to take your advice. The others are  5 annual performance, annual report to the mayor -- still,  6 we're going back to the mayor -- have such other powers  7 and duties as prescribed by the law. And I think one of  8 the most important things that I'm concerned about is  9 Number 4, and that you review -- receive, review and  10 investigate any charges brought forth by the public  11 against the conduct of the Department of Fire and Public  12 Safety and any of its members and submit a written  13 report of its findings and recommendations.  14 And, yes, you do have the authority to fire  15 someone who is not doing their job. But anybody would  16 know that has been any kind of business person, you're  17 not going to fire anybody unless you have just cause.  18 And that is so true for the mayor as well.  19 I think we're all getting hung up on the fact  20 that the mayor doesn't have control over everybody that  21 he hires and fires. And I think some of us might think  22 that he should. But, you know, I'm looking at this and  23 I think we really need to understand -- and we have  24 requested the Fire and Public Safety Commission/Board  25 chairpersons to come and talk more story with us about</p>	<p style="text-align: right;">Page 60</p> <p>1 a year to rectify your challenges.  2 The other thing is, I -- I feel that it's that  3 important that the evaluation process of the chief is  4 done by a group of people that are independent. Because  5 tell you what, we evaluate the chief, and whether he's  6 doing good, bad or indifferent, we can turn around and  7 say, hey, you know what, this evaluation is poor, guess  8 what, you know, you're on notice. We -- we can do that.  9 Now, have we done it? No, we haven't. And, you know, I  10 mean, Stacy probably can tell you and Wayne can tell  11 you, because these two guys I know were on both the Fire  12 and the Police Commission.  13 CHAIR STONE: Thank you. Actually, I have a  14 question. Mr. Soares, you've been such a wealth of  15 knowledge for us right now. And considering that we  16 have such a small crowd this evening, would you mind,  17 after the break, coming back up? Because there's more  18 questions from the Commissioners. Is that okay?  19 MR. SOARES: Yeah, that's fine.  20 CHAIR STONE: Thank you very much. So we're  21 going to take -- the court reporter needs a --  22 MS. KAHUHU: We have one more.  23 CHAIR STONE: I'm sorry. We have one more  24 speaker. Why don't we take a break, please, for 10  25 minutes? We'll go back to that speaker, all right, then</p>

15 (Pages 57 to 60)

1 bring Mr. Soares back up, if that's okay with you.  
 2 Thank you very much. We'll take a 10-minute break now.  
 3 (Recess, 7:57 p.m. to 8:12 p.m.)  
 4 CHAIR STONE: I'll call this meeting back to  
 5 order following our short recess, and we'll continue  
 6 with our next testifier. Lisa, next testifier.  
 7 MS. KAHUHU: Archie Kalepa.  
 8 CHAIR STONE: Mr. Kalepa, thank you very much  
 9 for coming today.  
 10 MR. KALEPA: Good evening, everyone. I just  
 11 wanted to -- the reason why I'm here -- I'm here  
 12 speaking as a person of this community. And I just  
 13 listening to Butch talk about the different commissions.  
 14 And I'm here to say that I think that Ocean Safety  
 15 should fall under the Public Safety Commission. You  
 16 know, the -- there's two commissions, it's Fire/Public  
 17 Safety. And in the last 15 years, Ocean Safety has  
 18 actually grown into a different level of operation, a  
 19 different level of function within this community.  
 20 Right now, Ocean Safety is in the Parks and  
 21 Recreation. I'm not saying it needs to get out of Parks  
 22 and Recreation, but the function of Ocean Safety and  
 23 what they do is a public safety service. There's  
 24 nothing that we do today that is recreational. We don't  
 25 teach surf lessons. We don't teach people how to swim.

1 What we do is we provide a life-saving service day in  
 2 and day out.  
 3 I've had the opportunity, in the last 15  
 4 years, to travel around the world and share my expertise  
 5 within ocean safety. And I've seen lifeguard agencies  
 6 throughout this country move into a public safety  
 7 capacity. And I think that this island is ready for us  
 8 to move in that direction. How it happens, I do not  
 9 know, but if we fell under the Charter -- or the Public  
 10 Safety Commission, it would help guide that vehicle in  
 11 that direction.  
 12 So I'm here to make a recommendation to the  
 13 Charter Commission that, if there is a possibility to  
 14 make that presentation, if I can educate you guys in any  
 15 way, to share my knowledge in that regard, you know, I  
 16 think that that should happen.  
 17 CHAIR STONE: Thank you very much, Mr. Kalepa.  
 18 Very, very good point. Thank you. Commissioners,  
 19 clarification, questions for Mr. Kalepa? Very good.  
 20 MEMBER MOIKEHA: Chair?  
 21 CHAIR STONE: Yes, question.  
 22 MEMBER MOIKEHA: I have a question. Thank you  
 23 for your testimony. So Ocean Safety, you said, now  
 24 comes under Parks and Recreation?  
 25 MR. KALEPA: That's correct.

1 MEMBER MOIKEHA: And with the establishment of  
 2 the Fire and Public Safety Commission, that should be  
 3 under that, it should be moved under that? Okay. So it  
 4 seems like it would need a Charter change. Is that the  
 5 only way to go about moving that from under Parks and  
 6 Recreation to this commission?  
 7 MR. KALEPA: You know, I really don't know how  
 8 to answer that, but I think the commission -- the  
 9 Fire/Public Safety Commission would help determine part  
 10 of our function in a public safety manner. And that's  
 11 where we would go to -- that's how the commission would  
 12 work. That's how they should function, is to help  
 13 facilitate or address public safety concerns through the  
 14 commission, address it to the commission, make it part  
 15 of a reality, whether it be a budgetary item, whether it  
 16 be an operational function, whether it be some kind of  
 17 mandate.  
 18 MEMBER MOIKEHA: Okay. Thank you.  
 19 MR. KALEPA: You're welcome.  
 20 CHAIR STONE: Thank you. Commissioner DeRego.  
 21 We can pass down the mic. Thank you.  
 22 MEMBER DEREGO: Excuse me. I'm sorry. We  
 23 always go through this in terms of is there an easier  
 24 way to do this besides changing sort of what's mandated  
 25 in the Charter, is there an administrative way of doing

1 this, is there a way of changing functions. So this is  
 2 where these questions are coming from.  
 3 MR. KALEPA: Right.  
 4 MEMBER DEREGO: But it does make perfect sense  
 5 to have something to do with public safety with the Fire  
 6 and Public Safety Commission. We do have the Civil  
 7 Defense Agency which currently is, also, regulated by  
 8 the Fire and Public Safety Commission. I'm wondering if  
 9 there's a way, when we look at this, that, you know,  
 10 just as we look at the Civil Defense Agency, which is  
 11 under the Fire, maybe just developing a chapter or  
 12 something that would also look at Ocean Safety which is  
 13 something that's on all three islands, actually --  
 14 MR. KALEPA: Correct.  
 15 MEMBER DEREGO: -- of the county. So, you  
 16 know, thank you for bringing up the suggestion. I  
 17 hadn't even thought about it before. And right now,  
 18 right, it's under Parks, and maybe it needs to be  
 19 somehow moved, but we're going to have to make that  
 20 decision. And whether we make a suggestion,  
 21 administratively, it gets changed in some way, shape or  
 22 form as a part of the recommendation, maybe not a  
 23 Charter amendment, but, you know, it's something  
 24 definitely that I think the Commission should look at.  
 25 Thank you for bringing that up.



<p style="text-align: right;">Page 65</p> <p>1 MR. KALEPA: Thank you.</p> <p>2 CHAIR STONE: Thank you. Commissioners, any</p> <p>3 further questions, clarifications? Yes, Commissioner</p> <p>4 Okamoto.</p> <p>5 MEMBER OKAMOTO: I just want to make a</p> <p>6 correction for the record. Lanai does not have -- as</p> <p>7 far as I know, any Ocean Safety would come under the</p> <p>8 Fire Department or the DLNR.</p> <p>9 MEMBER DEREGO: Thank you.</p> <p>10 CHAIR STONE: Commissioner Crivello.</p> <p>11 MEMBER CRIVELLO: I think there needs to be</p> <p>12 information, also, that the Civil Defense is not under</p> <p>13 the authority of the Fire and Public Safety Commission.</p> <p>14 Mr. Kalepa, mahalo, for joining us this</p> <p>15 evening. I would like to know, in your years being with</p> <p>16 the Ocean Safety, under the Parks and Recreation, is</p> <p>17 there a plan within the present department, some sort of</p> <p>18 dialogue that's going on now with the Fire Department to</p> <p>19 consider those changes? And what islands, if I</p> <p>20 understand right, perhaps maybe Kauai or the Big Island,</p> <p>21 would be under -- what islands have the Ocean Safety</p> <p>22 under the jurisdiction of the Fire and Public Safety</p> <p>23 Commission? Would you know?</p> <p>24 MR. KALEPA: Yeah. Kauai County has been</p> <p>25 under the Department of Fire -- Kauai's Ocean Safety has</p>	<p style="text-align: right;">Page 67</p> <p>1 established shall review the operation of the agency,</p> <p>2 make recommendations for changes which may be desirable</p> <p>3 to improve, et cetera, et cetera. So the Fire and</p> <p>4 Public Safety Commission does have some role in Civil</p> <p>5 Defense.</p> <p>6 MR. KALEPA: And, you know, we want -- we need</p> <p>7 the support of the commission to help make decisions</p> <p>8 that sometimes may be -- may not give -- happen for us</p> <p>9 politically, but we know it's -- as far as the public</p> <p>10 safety service, it's the right thing to do. And</p> <p>11 sometimes we need to -- more heads. We need a</p> <p>12 commission to help digest, you know, the answers.</p> <p>13 MEMBER DELEON: Mr. Chair?</p> <p>14 CHAIR STONE: Commissioner DeLeon.</p> <p>15 MEMBER DELEON: You know, I think this is a</p> <p>16 complicated issue that we're going to need to bring in</p> <p>17 resources and really sit down and pull the strings</p> <p>18 apart.</p> <p>19 MEMBER DEREGO: Yeah.</p> <p>20 MEMBER DELEON: And, you know, diagram it and</p> <p>21 take a look at, you know, how the arrangement would work</p> <p>22 out and the way it should be brought back together. And</p> <p>23 trying to do it here tonight might be kind of --</p> <p>24 MEMBER DEREGO: Exactly.</p> <p>25 MEMBER DELEON: Let's do it in a little more</p>
<p style="text-align: right;">Page 66</p> <p>1 been under the Fire Department for the last 11 years.</p> <p>2 Big Island has been under the Fire Department for two</p> <p>3 years. The City and County of Honolulu, Ocean Safety is</p> <p>4 under the Department of Public Safety, and they're with</p> <p>5 the medics and Ocean Safety. I do know that there was</p> <p>6 an evaluation of ocean -- City and County of Honolulu</p> <p>7 Ocean Safety. And within 30 days, they're going to make</p> <p>8 a determination whether Ocean Safety should move to the</p> <p>9 Fire Department or not. But the City and County of</p> <p>10 Honolulu's Ocean Safety division is in a public safety</p> <p>11 service.</p> <p>12 And that's what I'm trying to say, is that we</p> <p>13 need to fall into a public safety service. Because we</p> <p>14 shouldn't be competing with lawnmowers and weed-eaters</p> <p>15 from a public safety standpoint, when we need jet skis</p> <p>16 and, you know, trained ocean safety professionals. It's</p> <p>17 -- it's night and day.</p> <p>18 And so I'm gonna leave it at that.</p> <p>19 MEMBER DEREGO: May I make a comment?</p> <p>20 CHAIR STONE: Commissioner DeLeon [sic].</p> <p>21 MEMBER DEREGO: I would like to clarify what I</p> <p>22 said. On Page 30, on Chapter 16 of the Charter, it</p> <p>23 actually does say -- maybe they don't have</p> <p>24 administrative over the Civil Defense Agency, but it</p> <p>25 says the Fire and Public Safety Commission as</p>	<p style="text-align: right;">Page 68</p> <p>1 organized manner, I think. Thank you.</p> <p>2 MR. KALEPA: Thank you.</p> <p>3 CHAIR STONE: Commissioners, any further</p> <p>4 clarification?</p> <p>5 (Silence.)</p> <p>6 CHAIR STONE: Thank you so much for your</p> <p>7 testimony tonight, Mr. Kalepa. Much appreciated. Thank</p> <p>8 you for coming.</p> <p>9 Lisa, do we have any more public testifiers?</p> <p>10 MS. KAHUHU: No one is signed up.</p> <p>11 CHAIR STONE: No one is signed up. I'll put</p> <p>12 the question out to the crowd if anybody would like to</p> <p>13 come forward, you're welcome to come forward now.</p> <p>14 (Silence.)</p> <p>15 CHAIR STONE: Okay. Thank you. So,</p> <p>16 Commissioners, I believe that we had further questions</p> <p>17 for our previous testifier. Mr. Soares, if he --</p> <p>18 Commissioners, do we have further questions for</p> <p>19 Mr. Soares?</p> <p>20 (Silence.)</p> <p>21 CHAIR STONE: No, okay. Sorry, Mr. Soares.</p> <p>22 Didn't mean to prematurely call you up.</p> <p>23 MEMBER DELEON: Want to talk some more, Butch?</p> <p>24 CHAIR STONE: Okay. Oh, actually, we do have</p> <p>25 a question for you, Mr. Soares.</p>

17 (Pages 65 to 68)

Certified Shorthand Reporters Maui

808-244-3376

1 MEMBER SUGIMURA: Soares.  
 2 MEMBER DEREGO: Soares.  
 3 CHAIR STONE: Soares. Commissioner Hedani.  
 4 VICE-CHAIR HEDANI: Hi, Butch. You mentioned  
 5 that, as part of the duties -- one of the duties that  
 6 you had was to -- while serving on the Fire and Public  
 7 Safety Commission was to select the chief. Could you  
 8 explain to us what that process was and how many  
 9 candidates you went through? Because I think one of the  
 10 candidates that didn't make it suggested that it be  
 11 dissolved or --  
 12 MR. SOARES: Here we go, Wayne. I got to  
 13 choose my words very, very carefully. Okay. Once we  
 14 were aware that Chief Kaupalolo was going to retire,  
 15 that was in late -- in late November or early December,  
 16 then we put out a notice. And my recollection was it  
 17 was a notice in The Maui News and the Advertiser. So  
 18 advising people that the County was looking for  
 19 candidates to be chief. We had nine applicants. We had  
 20 a scoring process and we had a interview process where  
 21 we had 20 questions and each of the commissioners would  
 22 evaluate the candidate's answers to the question scoring  
 23 accordingly. And then we tabulated it to find out who  
 24 was going to be the chief. In the first go-around, we  
 25 eliminated seven, one of which was the gentleman that

1 testified to elimination of the commission. Okay. Then  
 2 what we did was -- and we had two other candidates  
 3 that -- the process was going to be that we would ask  
 4 them the questions, we would score them accordingly and  
 5 if possible, we would need to call them back. So we  
 6 called two back. And we asked them for clarification on  
 7 certain of their answers. And after going through that  
 8 process, we had a vote of who the chief would be. And,  
 9 naturally, the -- the chief in place today is -- was the  
 10 selection.  
 11 Personally, I feel we made the right  
 12 selection. There were a couple candidates that were  
 13 very interesting. Two of the candidates were not with  
 14 the Police Department [sic] and -- and they had -- they  
 15 had retired and then considered coming back as chief.  
 16 It was two.  
 17 CHAIR STONE: It was Fire Department.  
 18 MR. SOARES: I'm sorry. Fire Department, I'm  
 19 sorry. Yeah. So out of the nine, two of them were not  
 20 with the department. And the two that were not with the  
 21 department didn't score, you know, in the top two. So,  
 22 unfortunately, they were eliminated, also. But I think  
 23 the process that we had and -- and, you know, Stacy was  
 24 part of it. There were times where it seemed like it  
 25 was complicated, but we felt that with the -- with the

1 severity of the task, we wanted to make sure that when  
 2 we walked away, we had picked the right person.  
 3 And I guess, from my experience in going  
 4 through selecting the Police Chief, we did -- we did  
 5 some of the things that I recall from selecting the  
 6 chief of police. The better points is what we  
 7 incorporated.  
 8 And we must have done a pretty good job  
 9 because, a few months after we got to select the Fire  
 10 Chief, we got a call, and the Fire Chief and myself were  
 11 put on a committee to select the Fire Chief for the  
 12 airport. They took our questions, incorporated it  
 13 somehow or another. And we interviewed, I don't know,  
 14 five or six candidates for the Fire Chief for Kahului  
 15 Airport. Kahului Airport Fire Chief is not part of Maui  
 16 County.  
 17 CHAIR STONE: Thank you, Mr. Soares. Thank  
 18 you very much. Commissioners, any further questions or  
 19 clarifications?  
 20 (Silence.)  
 21 CHAIR STONE: No. Thank you so much.  
 22 MR. SOARES: Can I make one comment, you know,  
 23 relative to Archie Kalepa's statement? Okay?  
 24 CHAIR STONE: Go ahead.  
 25 MR. SOARES: We were approached two months ago

1 to the fact that the mayor wanted the Fire Department to  
 2 -- to merger with the aquatic group. I should say not  
 3 aquatic group, because the aquatic -- the aquatic --  
 4 there's two -- two sections. One takes care of the  
 5 pools and the others take care of the beach, the  
 6 lifeguards. When we found out about it, we had  
 7 questions. And two meetings ago, we had the mayor, with  
 8 John Buck and another person, to come to our meeting and  
 9 explain the pros and the cons of this merger. And I  
 10 think what the final resolution was is that we feel that  
 11 a committee should be formed of firemen, and the County  
 12 Administration, and somebody from the Parks would come  
 13 by and explain the pros and the cons of this merger.  
 14 And right now, the concern that the Fire  
 15 Department has is twofold. Number one: We, meaning the  
 16 Fire Department, is right in the middle -- or not quite  
 17 in the middle, but they're about one-third of the way in  
 18 the process of getting the Fire Department accredited.  
 19 I don't know if any of you are familiar with the  
 20 accreditation process. It can go anywhere from two  
 21 and-a-half to four years. And you have to present reams  
 22 of paper, history reports, et cetera, before you can get  
 23 accredited.  
 24 The Police Department was accredited, I want  
 25 to say, about 10 or 15 years ago. That was right at the

<p style="text-align: right;">Page 73</p> <p>1 time of Howard Tagomori's term expiring. But with the  2 accreditation, the department gets tremendous recommend  3 -- recommendations or -- or -- or respect nationwide.  4 And there's some benefits as far as insurance and -- I  5 don't know all of it, but there are benefits to it.  6 And -- and when you are accredited, when you  7 recruit policemen and/or firemen, there are certain  8 minimal standards. So the standards are going to be  9 improved. You know, we're gonna get a better quality of  10 firemen. And we going to get firemen that are -- are  11 probably a little more familiar with, you know, public  12 -- dealing with the public and just not responding to a  13 fire. And speaking off the top.  14 CHAIR STONE: Thank you.  15 MR. SOARES: End of story.  16 CHAIR STONE: Thank you very much, Mr. Soares.  17 Thank you.  18 So thanks so much for your testimony. Thank  19 you for being here this evening. It's very much  20 appreciated.  21 (Applause.)  22 CHAIR STONE: And, Commissioners, thank you  23 for your patience as well. Appreciate it. I want to  24 say thanks to all of our testifiers for coming this  25 evening.</p>	<p style="text-align: right;">Page 75</p> <p>1 from the Mayor's Office, and we need to get something in  2 writing, I think, to talk about that merger that they  3 were talking about. If the Mayor's recommending a  4 merger, something must be in writing at this point. And  5 that would help get some clarity on this for us. So I  6 think it would be good to see that. And I really do  7 think we need to take this apart bit by bit so that we  8 can understand it better. That's all. I just think we  9 need to find the documentation.  10 CHAIR STONE: Thank you. Okay, thank you.  11 Lisa, just a point of fact, when is our next scheduled  12 meeting, please?  13 MS. KAHUHU: July 25th.  14 CHAIR STONE: July 25th. That is --  15 MS. KAHUHU: Monday.  16 CHAIR STONE: Location, please?  17 MS. KAHUHU: At the Planning Conference Room.  18 CHAIR STONE: Planning Conference Room, July  19 25th, Monday --  20 MEMBER DELEON: We have Lanai public hearing  21 MS. KAHUHU: The next regular meeting is the  22 25th. We'll be on Lanai on July 20th, which is a  23 Wednesday, at 7:00 p.m.  24 CHAIR STONE: Okay. July 20th, Wednesday, on  25 Lanai.</p>
<p style="text-align: right;">Page 74</p> <p>1 And I'm going to close oral testimony at this  2 time, without any objections or comments. Any  3 Commissioners, comments?  4 (Silence.)  5 CHAIR STONE: No. Oral testimony is now  6 closed.  7 ...END OF PUBLIC TESTIMONY...  8 CHAIR STONE: Without objection, the Chair  9 will accept and file all public communications into the  10 record.  11 And we have a little extra time right now.  12 Actually, hang on one second. Commissioners, we have  13 the option to go into discussion period about the  14 testimony we've heard this evening. Everybody looks  15 pretty tired, so I am going to -- I'm going to skip that  16 option.  17 MEMBER DELEON: Can I make a remark, Chair?  18 CHAIR STONE: Yes. Sure. Commissioner  19 DeLeon.  20 MEMBER DELEON: I think what Butch said at the  21 end --  22 CHAIR STONE: One second. You need a mic.  23 MEMBER DELEON: What Butch mentioned at the  24 end, I think, probably is memorialized in writing  25 someplace in the bureaucracy, with this commission or</p>	<p style="text-align: right;">Page 76</p> <p>1 MS. KAHUHU: Lanai Community Center.  2 CHAIR STONE: 7:00 p.m., Lanai Community  3 Center. That's our next public outreach meeting.  4 I would like to thank everyone for coming  5 tonight. All of your time and input is extremely  6 valuable to the process and will have an impact on  7 Maui's future.  8 Without objection, I'll now adjourn this  9 meeting.  10 And thanks so much for -- Akaku, for being  11 here. It's very much appreciated. Thank you.  12 Meeting adjourned.  13 Oh, and before -- also, we have a councilwoman  14 here that I haven't recognized, Elle Cochran. Thank you  15 so much for coming and taking your valuable time.  16 MS. COCHRAN: Thank you folks, all.  17 CHAIR STONE: Thank you. Everybody have a  18 safe drive. Thank you.  19 (Meeting adjourned at 8:36 p.m.)  20  21  22  23  24  25</p>

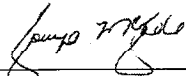
19 (Pages 73 to 76)

CERTIFICATE

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

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

DATED this 29th day of July, 2011.




Tonya McDade  
Certified Shorthand Reporter #447  
Registered Professional Reporter  
Certified Realtime Reporter  
Certified Broadcast Reporter