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3 COUNTY OF MAUI, STATE OF HAWAII
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8 BOARD OF ETHICS
9 REGULAR MEETING
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15 Held at the Mayor's Conference Room, 200 South High
16 Street, Wailuku, Maui, Hawaii, commencing at 12:36 p.m.,
17 on Wednesday, February 8, 2017.
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21 Reported by: Tonya McDade, CSR, RPR, CRC
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25 Wailuku, Hawaii 96793
(808)244-3376
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1 ATTENDANCE
2 BOARD MEMBERS PRESENT:
3 Norman Franco, Vice-Chair
4 Sara Gadarian, Secretary (In, 12:39 p.m.)
5 David Courson, Member
6 Abel Kahooohanohano, Jr., Member
7 Herman Nascimento, Member
8 Matthew Macario, Member
9 Rachel Phillips, Member
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11 STAFF PRESENT:
12 Jennifer Oana, Deputy Corporation Counsel
13 Angela Andrade, Executive Secretary
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1 (Wednesday, February 8, 2017, 12:36 p.m.)
2 * * *
3 VICE-CHAIR FRANCO: Would the Board of Ethics
4 County of Maui meeting of February 8th be called to order.
5 First matter on the agenda is review and approval of the
6 January 11, 2017 minutes.
7 MEMBER COURSON: Mr. Chair, I would move that we
8 approve and waive the reading of the minutes.
9 VICE-CHAIR FRANCO: Motion made by David.
10 MEMBER KAHOOHANO HANO: Second.
11 VICE-CHAIR FRANCO: Second by Abel. All in
12 favor, say "aye."
13 (Response.)
14 VICE-CHAIR FRANCO: Okay. Moving on. Public
15 testimony. Chair entertains anyone who want to speak on
16 any issues on the agenda of our meeting today. If so,
17 they'll have three minutes to testify.
18 MS. ANDRADE: We don't have any public
19 testimony.
20 VICE-CHAIR FRANCO: Okay. Since there's no
21 objection, no one present for public testimony, we'll
22 close public testimony and move on to the next agenda
23 item. Old.
24 Business. Financial Disclosures, we have none.
25 Communication items, none.

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1 Item c., continued discussion regarding changing
2 the current Financial Disclosure Statement form. This is
3 where Sara is kind of leading us in doing that and she's
4 not here so we've got to defer it. We can defer that
5 until the end.
6 MS. OANA: Any objection to that?
7 VICE-CHAIR FRANCO: Can we defer that?
8 MEMBER MACARIO: No.
9 VICE-CHAIR FRANCO: New Business. Financial
10 Disclosures. We have Alikea Atay, Gladys Baisa, Sananda
11 Baz, Ruth Buenconsejo, Robert Carroll, Stacy Crivello,
12 Elle Cochran, Rowena Dagdag-Andaya, Donald Guzman, Riki
13 Hokama, Kelly King, Ed Kushi, Jr., Dennis Mateo, Joshua
14 Nishita, Brianna Savage, Yuki Lei Sugimura, David Taylor,
15 Michael White and Jock Yamaguchi, you all should have
16 received. If there's any questions on any of those?
17 MEMBER KAHOOHANO HANO: Yeah. Vice Chair, there
18 was one, I was trying to find, he checked every box none
19 and yet he wrote things in. I am trying to find out which
20 one it is. That's the only one I could find. Yeah, I
21 believe it's -- no, it's not.
22 VICE-CHAIR FRANCO: Bob Carroll?
23 MEMBER KAHOOHANO HANO: There was another one
24 with big checkmarks. Yeah, he wrote things in the box
25 and, yet, he still checked none in the bottom, yeah.

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<p>1 MS. ANDRADE: I think that they mean that they 2 got it confused that there's no additional sheet attached. 3 MEMBER KAHOOHANO HANO: I know we ran into that 4 before. Dennis Mateo. 5 VICE-CHAIR FRANCO: Dennis Mateo, Danny, yeah. 6 Is it Danny or Dennis? 7 MS. ANDRADE: It's Dennis. 8 MEMBER KAHOOHANO HANO: I'm sorry. It's not -- 9 okay. Josiah Nishita. And like -- you know, like it was 10 said, that I think they get confused with the additional 11 sheet attached, then they check none, so -- but in the 12 past, we've sent it back to them before to, you know, is 13 it none or do you have something to -- 14 MS. ANDRADE: I think he says it doesn't apply 15 to him and there's no additional. I think he's just 16 covering all his bases. 17 MEMBER KAHOOHANO HANO: It's up to the Board what 18 you want to do. Like I said, in the past, we sent it 19 back, but if you -- the Board feels it's okay -- I mean, 20 it's just -- you know, I think we know what he's trying to 21 say, but, you know, it doesn't matter to me. I just 22 wanted to point it out. 23 VICE-CHAIR FRANCO: Any other comments? 24 MEMBER MACARIO: I have one. And that is that 25 Mr. White's Financial Disclosure identifies a spouse as</p>	<p>1 we keep getting from time to time, yeah. 2 VICE-CHAIR FRANCO: That's where the new forms 3 come in. Unfortunately, they're not ready yet. 4 MEMBER KAHOOHANO HANO: Yeah. 5 MEMBER MACARIO: It's easily corrected, so I 6 would suggest that we send it back for that. 7 VICE-CHAIR FRANCO: We'll send back two of them, 8 then, Josiah Nishita and Mike White. Okay. 9 MS. ANDRADE: What do we want clarified on 10 Josiah? 11 VICE-CHAIR FRANCO: Oh, like Abel said, that -- 12 MEMBER KAHOOHANO HANO: Well, he has things 13 written in the box, but he checked "none" in the bottom. 14 MEMBER MACARIO: Over there, Sara. 15 MEMBER GADARIAN: Oh, thank you. 16 VICE-CHAIR FRANCO: Corp Counsel wanna say a few 17 things about a couple of the Financial Disclosure 18 Statements and she needs to know -- 19 MS. OANA: Oh, no. I just -- when you guys 20 conclude the discussion, I suggest a motion from someone 21 to acknowledge receipt of all of those Financial 22 Disclosures minus the two, three people you're going to be 23 sending back for more info. 24 VICE-CHAIR FRANCO: Okay. 25 MEMBER MACARIO: Is it three now?</p>
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<p>1 self-employed, but does not indicate the compensation. 2 And I don't know if that's another thing that we have 3 routinely, in the past, sent back and whether it matters 4 in this case, but I thought I would point that out as 5 well. 6 MEMBER KAHOOHANO HANO: We have. We've asked 7 him, you know, what is -- what do you mean by 8 self-employed. 9 VICE-CHAIR FRANCO: He says that she's a 10 detection canine investigator, whatever that is. 11 MEMBER MACARIO: Yeah. 12 VICE-CHAIR FRANCO: She's with the police 13 department or something? 14 MEMBER MACARIO: See, on the next page, he 15 identifies his annual income, but not the spouses. So, 16 again, I am not sure how significant that is. 17 VICE-CHAIR FRANCO: Oh, yeah. 18 MEMBER MACARIO: But -- 19 VICE-CHAIR FRANCO: Well, there's nothing in the 20 box that says annual compensation, but it shows on his 21 "see attached." Yeah, he outlines his income, but nothing 22 for her. We should send this back, yeah? 23 MS. ANDRADE: That's up to you. 24 VICE-CHAIR FRANCO: Yeah. 25 MEMBER KAHOOHANO HANO: It's an old problem that</p>	<p>1 MS. ANDRADE: No. Sorry, I thought you were 2 talking about the three -- 3 VICE-CHAIR FRANCO: No. There's three new 4 Council people that sent in their disclosure statements 5 late, Alika Atay, Kelly King and Yuki Lei Sugimura. 6 MS. ANDRADE: Yuki Lei. 7 VICE-CHAIR FRANCO: I know who she is. I'm 8 sorry. Okay. 9 MS. OANA: So just for the Board's information. 10 VICE-CHAIR FRANCO: Yeah, for information. 11 MS. OANA: So under the Charter, the new Council 12 Members that were just elected, they were sworn -- well, 13 they're sworn in on January 2nd, they have 15 days from 14 January 2nd to turn in their Financial Disclosure 15 Statements. And they were late. Angela, if you can tell 16 them how late they were. 17 MS. ANDRADE: Well, that made the due date 18 January 17th. So if you go back and look at the three 19 Council Members, you can see what date they came in. 20 So -- 21 VICE-CHAIR FRANCO: Okay. Let's look at those. 22 Atay's. 23 MS. ANDRADE: Mr. Atay came in on January 20th. 24 MS. OANA: So their information is just brought 25 to folks for your discussion and action, if you would</p>

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<p>1 like.</p> <p>2 MS. ANDRADE: Kelly King was received on January</p> <p>3 19th. And Yuki Lei Sugimura was received on January 19th.</p> <p>4 Those all had deadlines of January 17th.</p> <p>5 VICE-CHAIR FRANCO: I think we should send them</p> <p>6 a letter saying that, in the future, be more timely to</p> <p>7 fulfill the requirements of the law here. So what the</p> <p>8 Board feels about that? It's not a real major problem,</p> <p>9 but they should be aware they have a certain deadline.</p> <p>10 MS. ANDRADE: But it is a Charter violation.</p> <p>11 VICE-CHAIR FRANCO: Charter violation.</p> <p>12 MEMBER KAHOOHANOHANO: Yeah. I don't --</p> <p>13 VICE-CHAIR FRANCO: Maybe just a cautionary</p> <p>14 letter in the future.</p> <p>15 MEMBER KAHOOHANOHANO: Tell them, next time,</p> <p>16 make sure you're on time.</p> <p>17 VICE-CHAIR FRANCO: Okay.</p> <p>18 MEMBER KAHOOHANOHANO: I mean, what else you</p> <p>19 going to do?</p> <p>20 VICE-CHAIR FRANCO: New kids on the block, so</p> <p>21 going to give them no slack. So, okay.</p> <p>22 MS. ANDRADE: Well, also, just to let you know</p> <p>23 that our office does send out reminder letters letting</p> <p>24 them know that their deadline is January 17th.</p> <p>25 MEMBER MACARIO: Do you have a suggestion? Is</p>	<p>1 your next meeting or do you want it to just go out before</p> <p>2 that meeting?</p> <p>3 MEMBER GADARIAN: Pardon me. I would suggest</p> <p>4 that the letter repeat the letter that went out from</p> <p>5 staff, in effect. Not --</p> <p>6 VICE-CHAIR FRANCO: We just need to make them</p> <p>7 aware that we know that you're late and it's in violation</p> <p>8 of the ordinance.</p> <p>9 MS. ANDRADE: Charter.</p> <p>10 VICE-CHAIR FRANCO: Charter, I mean. And in the</p> <p>11 future, be more timely.</p> <p>12 MEMBER COURSON: And, Mr. Chair, I would also</p> <p>13 like to recommend that the Board would approve the letter</p> <p>14 at the next meeting. Since this is coming from the</p> <p>15 Board --</p> <p>16 VICE-CHAIR FRANCO: All right.</p> <p>17 MEMBER COURSON: -- we ought to know what's in</p> <p>18 the letter.</p> <p>19 VICE-CHAIR FRANCO: Okay. All right.</p> <p>20 MEMBER COURSON: So I would recommend that we</p> <p>21 approve this letter.</p> <p>22 MEMBER GADARIAN: Good idea.</p> <p>23 VICE-CHAIR FRANCO: We'll circulate it at our</p> <p>24 next meeting before it's sent out. Okay?</p> <p>25 MS. OANA: Okay.</p>
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<p>1 there something you've done in the past when this has</p> <p>2 happened?</p> <p>3 MS. ANDRADE: I've never had an appointed or</p> <p>4 elected official be late before since I've been on Board</p> <p>5 of Ethics.</p> <p>6 MEMBER COURSON: Yes. In addition to the letter</p> <p>7 that goes out from Corporate Counsel, is that right?</p> <p>8 MS. ANDRADE: It would not come from our office;</p> <p>9 it would be from the Board.</p> <p>10 MEMBER COURSON: Okay. From -- that's what I</p> <p>11 was going to say, from the Board, in addition to that,</p> <p>12 from the Board. It's just more preventive than anything</p> <p>13 else since this is a first occasion -- violation for two</p> <p>14 individuals --</p> <p>15 VICE-CHAIR FRANCO: Three.</p> <p>16 MEMBER COURSON: Three. Three. Correction.</p> <p>17 Three individuals, that it would establish a good</p> <p>18 precedent if the Board was -- if the Board took notice of</p> <p>19 this. And so indicated so to the --</p> <p>20 VICE-CHAIR FRANCO: I agree.</p> <p>21 MEMBER COURSON: -- filers.</p> <p>22 VICE-CHAIR FRANCO: Okay. If that's okay with</p> <p>23 the Board, we'll follow up with David's -- do we need a</p> <p>24 second for that?</p> <p>25 MS. OANA: Do you want to review the letter at</p>	<p>1 VICE-CHAIR FRANCO: That's good. All right. So</p> <p>2 we're going to acknowledge receipt of these -- entertain a</p> <p>3 motion that we have received these Financial Disclosure</p> <p>4 Statements.</p> <p>5 MEMBER KAHOOHANOHANO: So moved.</p> <p>6 MEMBER COURSON: So moved.</p> <p>7 VICE-CHAIR FRANCO: All in favor, say "aye."</p> <p>8 (Response.)</p> <p>9 VICE-CHAIR FRANCO: Okay. And we're only going</p> <p>10 to ask for verification or clarification on two of them,</p> <p>11 Josiah Nishita and Michael White.</p> <p>12 Okay. Communication Item, email from Samuel</p> <p>13 Small dated January 11th, 2017. You guys all got that?</p> <p>14 Okay. This pertains to the case of Mark Sheehan's</p> <p>15 complaint against Councilman Michael White. I think I am</p> <p>16 just going to defer this to our next meeting. And we have</p> <p>17 some details to go over. Did you want to say --</p> <p>18 MS. OANA: I think, you know, if this just looks</p> <p>19 kind of like a public testimony kind of communication, if</p> <p>20 the Board wants, maybe we just treat it as public</p> <p>21 testimony.</p> <p>22 MEMBER MACARIO: Make a motion to acknowledge</p> <p>23 receipt?</p> <p>24 MS. OANA: Uh-huh.</p> <p>25 MEMBER MACARIO: Okay. I move to acknowledge</p>

<p style="text-align: right;">Page 13</p> <p>1 receipt of Mr. Small's January 11 email. 2 VICE-CHAIR FRANCO: Okay. 3 MEMBER GADARIAN: Second. 4 VICE-CHAIR FRANCO: Second. All in favor? 5 (Response.) 6 VICE-CHAIR FRANCO: Okay. This is to be 7 considered testimony which will be taken up at our next 8 meeting, right? 9 MS. OANA: Yes. 10 VICE-CHAIR FRANCO: The reason why we talked 11 about deferring it at the request of Mr. Sheehan -- you 12 want to go through that? 13 MS. OANA: Chair, can we just -- 14 VICE-CHAIR FRANCO: Oh, okay. We got to go back 15 to the track here. Getting off track. Okay. 16 Lobbyist Registration, none. 17 Announcements, none. 18 The next regular scheduled meeting, dated March 19 8, 2017, 12:30, at the Planning Conference Room. So we'll 20 be back -- 21 MEMBER GADARIAN: I'm sorry. 22 VICE-CHAIR FRANCO: I'm sorry. We deferred -- 23 we deferred your thing. Okay. 24 MEMBER GADARIAN: Thank you. 25 VICE-CHAIR FRANCO: Let's go back to -- since</p>	<p style="text-align: right;">Page 15</p> <p>1 Council. So I don't know how big an issue it is about 2 putting the TMK down besides your address. I can see -- 3 and Rachel is in real estate -- that sometimes the only 4 reference you have for property is the TMK, especially 5 when you're talking about rural areas when there's no real 6 physical address. 7 MS. OANA: So Gary -- I'm sorry, Chair. May I? 8 VICE-CHAIR FRANCO: Go ahead. 9 MS. OANA: So Gary suggests that, for right 10 now -- because who knows when he can get that bill for an 11 ordinance to Council. And then, as you know, budget is 12 coming up, so we're not sure when that would be passed, if 13 it is. So he suggested make the form follow the law for 14 now and then you guys can change the form when the -- when 15 the Code gets changed after. It will be an easy thing for 16 you to do. For right now, have the form follow what is 17 required in the Charter and the Code and the admin rules, 18 which is TMK and address, I believe, just for now. 19 MEMBER GADARIAN: At least one of the Members of 20 the Board has indicated that it was difficult when -- when 21 it's asked for both of those informations, that it's 22 cumbersome to fill out the form. The only thing is that 23 since we now do not have to list any information about our 24 personal reference -- residence -- sorry -- personal 25 residence on the form, it's not -- according to federal</p>
<p style="text-align: right;">Page 14</p> <p>1 Sara is here, go back to Item C, continued discussion 2 regarding changing the current Financial Disclosure 3 Statement. Sara. 4 MEMBER GADARIAN: Yes. Matthew and I and Norman 5 are in the process of looking at the instructions. I did 6 email some suggested format to Matthew, but he was out of 7 town at the last meeting. So we're continuing on to come 8 up with the instructions for the new form. One item that 9 is still a matter of unfinished business is that we are 10 going to be requesting and have asked counsel to come up 11 with requested change of the ordinance so that it's not 12 necessary to fill in the tax map key if you have the 13 address of the property on the form. 14 MS. OANA: Yes. I talked to Gary about that. 15 He is working on that. He's a little busy, as you all 16 know, in Honolulu in the arbitrations, but he had it on 17 his plate to do. 18 MEMBER GADARIAN: All right. So that's 19 announcing that that's continued business in that regard. 20 VICE-CHAIR FRANCO: He also suggested, when I 21 talked to Gary, that to get an ordinance changed takes 22 some time. 23 MEMBER GADARIAN: Yes. 24 VICE-CHAIR FRANCO: And we don't want to hold up 25 the new form based on trying to get something through the</p>	<p style="text-align: right;">Page 16</p> <p>1 law, that the majority of the people who are working on 2 boards and commissions, if what property they have is 3 their personal residence, then that becomes less 4 cumbersome. The other property that is listed on the 5 disclosure form is investment property. So most people 6 who are investors and hold property do have, readily 7 available, the tax map key. It's not a burden to list the 8 tax map key. So that was -- that was how that -- that -- 9 we could possibly come up with a new form and do that in 10 accordance with the current law. 11 VICE-CHAIR FRANCO: Yeah. Like -- like, you 12 know, Jen just said, just go with the -- with what the 13 Charter request the forms to be. 14 MEMBER GADARIAN: Sorry? 15 VICE-CHAIR FRANCO: Just go with what's required 16 by Charter, to have the TMK there. 17 MEMBER GADARIAN: Right. 18 VICE-CHAIR FRANCO: And once we get around to 19 getting to Council to change that, then we can change the 20 form. 21 MEMBER GADARIAN: That would be much better. 22 VICE-CHAIR FRANCO: Yeah. 23 MEMBER GADARIAN: Thank you. 24 VICE-CHAIR FRANCO: Okay. All right. So we'll 25 come up with another report. Maybe the three of us can</p>

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<p>1 meet again before our next meeting. 2 MEMBER GADARIAN: And come up with the 3 instructions. 4 VICE-CHAIR FRANCO: Instructions. And that's 5 the end. We're done for everything else. 6 MEMBER GADARIAN: I hope so. 7 MEMBER MACARIO: Me, too. 8 VICE-CHAIR FRANCO: And I appreciate Sara doing 9 all that. We just met, you know, just advising. She did 10 all the legwork. And we appreciate that. 11 MEMBER GADARIAN: And Angela. 12 VICE-CHAIR FRANCO: And Angela. 13 MS. ANDRADE: I just typed it. 14 VICE-CHAIR FRANCO: She puts it in the proper 15 format. 16 MEMBER GADARIAN: Thank you. 17 VICE-CHAIR FRANCO: Okay. So -- 18 MEMBER GADARIAN: Oh, one more announcement. 19 I'm sorry. That Dee Dee had suggested that, at the next 20 board meeting, which is the last meeting for both Norman 21 and Randol, that we have a potluck lunch as aloha. 22 VICE-CHAIR FRANCO: Oh, okay. All right. That 23 would be nice. 24 MEMBER GADARIAN: So other than Randol and 25 Norman, unless you really feel inspired to have wonderful</p>	<p>1 VICE-CHAIR FRANCO: Yeah. 2 MEMBER KAHOOHANO HANO: Bring finger food. 3 MEMBER GADARIAN: Thank you. 4 VICE-CHAIR FRANCO: Any leftover from the Super 5 Bowl parties, right? Kidding. 6 MEMBER GADARIAN: Long wait. 7 VICE-CHAIR FRANCO: In the icebox, from the 8 freezer. Okay. Next scheduled meeting is -- 9 MS. OANA: Can we get a motion to defer the 10 continued discussion regarding the Financial Disclosure 11 Statement forms? 12 VICE-CHAIR FRANCO: We need -- 13 MS. OANA: Motion to defer to the next meeting. 14 VICE-CHAIR FRANCO: Oh. Oh. Oh, okay. Yeah. 15 We need a motion to defer the new Financial Disclosure 16 forms. So the Chair entertains a motion to defer that 17 until our next meeting. 18 MEMBER MACARIO: So moved. 19 MEMBER GADARIAN: Second. 20 VICE-CHAIR FRANCO: Second by Sara. All in 21 favor? 22 (Response.) 23 VICE-CHAIR FRANCO: Okay, that's deferred. 24 Okay. So that ends our Regular Session. We'll move into 25 Executive Session.</p>
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<p>1 food, we will ask the remainder of the Members -- 2 VICE-CHAIR FRANCO: The gesture is enough. We 3 appreciate, you know -- 4 MEMBER GADARIAN: -- to bring something. 5 VICE-CHAIR FRANCO: -- even if it's simple. Be 6 nice to have an informal gathering after the meeting. One 7 last hurrah. 8 MEMBER GADARIAN: Thank you. 9 MS. OANA: You know, I would suggest we do it 10 while we're -- while the meeting is taking place, or that 11 would be a Sunshine Law violation. 12 MEMBER GADARIAN: I'm sorry? 13 VICE-CHAIR FRANCO: Going to be a long meeting 14 next time, so I am sure -- 15 MEMBER GADARIAN: So try to come early. 16 MS. OANA: Eat during the meeting and have the 17 party during the meeting. 18 VICE-CHAIR FRANCO: If you guys want to gather 19 around 11:30 and have lunch, because -- 20 MS. ANDRADE: I don't know that the Planning 21 Conference Room would be available at 11:30. 22 VICE-CHAIR FRANCO: Oh, okay. 23 MEMBER GADARIAN: Okay. Well, we'll -- 24 VICE-CHAIR FRANCO: We'll do it afterwards. 25 MEMBER GADARIAN: -- just be messy.</p>	<p>1 MS. OANA: Chair, entertain a motion to go into 2 Executive Session. 3 VICE-CHAIR FRANCO: I entertain a motion to go 4 into Executive Session. 5 MEMBER NASCIMENTO: So move. 6 MEMBER KAHOOHANO HANO: Second. 7 VICE-CHAIR FRANCO: Moved by Herman, seconded by 8 Abel. All in favor, say "aye." 9 (Response.) 10 VICE-CHAIR FRANCO: Review and approval of the 11 minutes -- 12 MS. ANDRADE: Wait. 13 VICE-CHAIR FRANCO: We'll call you in when we 14 get to that point. Thank you, Angela. 15 (Recess to Executive Session, 12:56 p.m. to 2:41 16 p.m.) 17 VICE-CHAIR FRANCO: So we're back in Regular 18 Session. Entertain a motion for adjournment to Regular 19 Session. 20 MEMBER NASCIMENTO: So moved. 21 MEMBER GADARIAN: Second. 22 MEMBER KAHOOHANO HANO: Second. 23 VICE-CHAIR FRANCO: All in favor, say "aye." 24 (Response.) 25 VICE-CHAIR FRANCO: Thank you very much, gang.</p>

(Meeting adjourned, 2:41 p.m.)

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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 1st day of March, 2017.

Tonya McAdo
Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Captioner