Allan Parachini
Chair

Ed Justus
Vice Chair

Members:
Merilee (Mia) Ako
Michael Perel
Patrick Stack
Cheryl Stiglmeier
Russell Wong

# COUNTY OF KAUA'I CHARTER REVIEW COMMISSION
## NOTICE OF MEETING AND AGENDA

Monday, July 25, 2016
**3:00 p.m.** or shortly thereafter
Mo'ikeha Building, **Liquor Conference Room 3**
4444 Rice Street, Līhu'e, HI 96766

## CALL TO ORDER

## APPROVAL OF MINUTES

Regular Open Session Minutes of June 27, 2016

## BUSINESS

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| CRC 2016-10 | Review and discussion of Voter Education explaining the County Charter Amendments Proposed in the 2016 General Election (On-gong) |
| CRC 2016-14 | Discussion of outreach for public education to include distribution points and media outlets (On-going) |
| CRC 2016-15 | Proposed amendment submitted by Commissioner Perel establishing a 5/2 Council districting proposal for the 2018 ballot |

## EXECUTIVE SESSION

Pursuant to Hawai'i Revised Statutes §§92-4, 92-5 (a) (4), and 92-9 the Commission anticipates convening in executive session to review and approve Executive Session minutes and to consult with the Commission's legal counsel on issues pertaining to the Commission's and the County's powers, duties, privileges, immunities, and/or liabilities.

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| **ES-019** | Executive Session Minutes of June 27, 2016 |

## RETURN TO OPEN SESSION

Ratify Commission actions taken in Executive Session for items: **ES-019**

## ANNOUNCEMENTS

Next Meeting: Monday, August 22, 2016, Time to be determined, in the Mo'ikeha Building, Meeting Room location 2 A/B.

## ADJOURNMENT

**EXECUTIVE SESSION**

Pursuant to Hawai'i Revised Statutes §92-7(a), the Commission may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). Discussions held in Executive Session are closed to the public.

Cc: Deputy County Attorney Adam Roversi

PUBLIC COMMENTS and TESTIMONY

Persons wishing to offer comments are encouraged to submit written testimony at least 24-hours prior to the meeting indicating:

1. Your name and if applicable, your position/title and organization you are representing;
2. The agenda item that you are providing comments on; and
3. Whether you will be testifying in person or submitting written comments only; and
4. If you are unable to submit your testimony at least 24 hours prior to the meeting, please provide 10 copies of your written testimony at the meeting clearly indicating the name of the testifier; and
5. If testimony is based on a proposed Charter amendment, list the applicable Charter provision.

While every effort will be made to copy, organize, and collate all testimony received, materials received on the day of the meeting or improperly identified may be distributed to the members after the meeting is concluded.

The Charter Commission rules limit the length of time allocated to persons wishing to present verbal testimony to five (5) minutes. A speaker's time may be limited to three (3) minutes if, in the discretion of the chairperson or presiding member, such limitation is necessary to accommodate all persons desiring to address the Commission at the meeting.

Send written testimony to:
Charter Review Commission
Attn: Barbara Davis
Office of Boards and Commissions
4444 Rice Street, Suite 150
Līhu'e, HI 96766
E-mail:bdavis@kauai.gov
Phone: (808) 241-4919 Fax: (808) 241-5127

SPECIAL ASSISTANCE

If you need an alternate format or an auxiliary aid to participate, please contact the Boards and Commissions Support Clerk at (808) 241-4919 at least five (5) working days prior to the meeting.

DRAFT To Be Approved

COUNTY OF KAUAI
Minutes of Meeting
**OPEN SESSION**

| Board/Committee: | **CHARTER REVIEW COMMISSION** | Meeting Date | **June 27, 2016** |
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| Location | Mo'ikeha Building, Meeting Room 2A/2B | Start of Meeting: 3:00 p.m. | End of Meeting: 4:56 p.m. |
| Present | Chair Allan Parachini; Vice Chair Ed Justus. Members: Merilee (Mia) Ako; Michael Perel; Patrick Stack; Cheryl Stiglmeier; Russell Wong.<br>Also: Deputy County Attorney Adam Roversi; Boards & Commissions Office Staff: Support Clerks Barbara Davis and Darcie Agaran; Administrator Jay Furfaro | | |
| Excused | | | |
| Absent | | | |

| SUBJECT | DISCUSSION | ACTION |
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| **Call To Order** | | Chair Parachini called the meeting to order at 3:00 pm with 6 Commissioners present |
| **Approval of Minutes**<br><br>Open Minutes 6/27/16 | Regular Open Session Minutes of May 23, 2016<br><br>Chair Parachini called for a motion relating to the minutes.<br><br>Mr. Justus called for a Point of Order stating the agenda as written is not correct. Item CRC 2016-15 on page 2….<br><br>This items says "Reconsideration of establishing a 5/2 Council districting proposal for the 2018 ballot" and is incorrect. The language that is presented is new language – it is not a reconsideration of a prior bill. Secondly it was not requested for any particular ballot so for it to say 2018 ballot is actually incorrect and he would like to know why it is written in this manner.<br><br>Ms. Davis said they have closed out 2016 ballot items so the only thing it can do is go forward. Mr. Justus asked who made this decision. Ms. Davis said (the timeline) has been on their list for quite some time as to what the target dates are. After today's meeting it goes out of (the Commission's) hands and | Commissioner Stiglmeier joined the meeting. |

| SUBJECT | DISCUSSION | ACTION |
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| | to Public Relations Office and then the Attorney. Mr. Justus said he understood but asked where was there ever any motion by this board that everything stops for 2016? Ms. Davis said they have been provided this information since February. Mr. Justus said they were provided a timeline and is this timeline something that was approved by this board. Ms. Davis said it was not disapproved. She said she would have to go back and check the minutes but it was presented to the board as a timeline they have to stick with. (File note – at the November 23, 2015 meeting Ms. Stiglmeier moved to receive the 2016 timeline; Mr. Justus seconded the motion; motion carried 7:0).<br><br>Mr. Furfaro said he was not sure he totally understood the Commissioner's question but they had a motion dealt with at a previous commission and was introduced as a 5/2 districting bill. As they proceeded that bill was amended (by Jan TenBruggencate) and voted on as a 4/3 item and that amendment did not pass as it was submitted. In putting this item back on as a reconsideration, time expired on it. A reconsideration should have been done exactly at the following meeting and it was not. Mr. Furfaro said he would save the rest of his commentary to the point in time when they get to that item on the agenda, but he hoped that clarified the question. A reconsideration must happen at the following meeting or at the meeting (when the action was taking place).<br><br>Mr. Justus stated he never requested a reconsideration of this bill. He submitted a new charter amendment with different language to the Chair as a proposed charter amendment. The Chair said he would put it on the ballot, corrected himself to say agenda. What the agenda states is a reconsideration; he is not requesting a reconsideration therefore this agenda is not correct.<br><br>Mr. Furfaro understood Mr. Justus' point but the reality is the item that is | |

| SUBJECT | DISCUSSION | ACTION |
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| | back on the agenda without the fine lines he is pointing out would have been a previous agenda item that was introduced as a makeup of a 5/2 council. This is in Mr. Furfaro's mind definitely a reconsideration. Mr. Justus asked if it was not the Chair's responsibility to determine whether an item is a reconsideration or not and not the staff? Mr. Furfaro said to set the agenda is the Chair's but to make the decisions on the policies and practices it is subject to the County Attorney as well as Boards and Commissions. Mr. Furfaro said there were two questions there – how an item gets on the agenda is based on the Chairman's putting something on the agenda of which all the Commissioners can contact him to put an item on. But an item that has already been dealt with 3 meetings ago would have to be evaluated based on is it a reconsideration and in this particular case 5/2 was already on the ballot (sic). It is looked at as a reconsideration. The second part to that is today is the final day and each item that comes up is subject to go back to the County Attorney's Office for another review and it would not come back (sound cut out for a few seconds). Mr. Justus asked Mr. Furfaro if he was telling him that what is on the agenda ultimately – can the Administrator change what is on the agenda of what the Chair approves. Mr. Furfaro stated he did not know where Mr. Justus got that from his comments. Mr. Furfaro said the Chair can set what is on the agenda and we put it on and when the agenda comes up for review it is subject to the rules and the status of how we do business. In this particular case because the 5/2 districting had previously been on other discussions it is too late to have a reconsideration. Mr. Justus stated he never requested a reconsideration. Mr. Furfaro said he understands Mr. Justus saying he did not request it but the makeup of the components actually fills the slot of what would be considered a reconsideration. If you see some of the verbiage but not all of the verbiage it is very similar to a reconsideration. Any further conversation Mr. Justus should have would be with the County Attorney. | |

| SUBJECT | DISCUSSION | ACTION |
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| | Chair Parachini noted that a new Attorney, Adam Roversi, is with the Commission today and he would like him to address what a reconsideration is.<br><br>Attorney Roversi said technically speaking it is his belief it should not be termed a reconsideration because to reconsider a motion that was passed upon, whether approved or denied as Mr. Furfaro said, needs to happen at the same meeting and moved by a member of the committee that was on the winning side of the vote. However they can they can have a renewed motion on an item that was previously passed upon at a future meeting. Attorney Roversi believed it was perhaps labeled reconsideration for purposes of the agenda because the Commission staff viewed it as the same language as had previously been voted upon. But for practical purposes it can remain on the agenda as a renewed motion for a consideration of the districting proposal. Attorney Roversi said they could renew them according to Robert's Rules, which this group is supposed to follow unless they have specific rules speaking to the point. That then begs to the question of the timeline that the board was discussing. (Overlapping conversation) Attorney Roversi said he is prepared to speak about the timeline when they get to this on the agenda but he will broadly agree with Mr. Furfaro that there are some time constraints that are likely going to preclude having this item go onto the 2016 ballot. That however does not preclude discussion of the issue. Mr. Justus said even though it says reconsideration we are not violating public notice practices. Attorney Roversi said they can vote to amend the agenda under Robert's Rules to call it renewal of the matter and discuss it as it comes up as an agenda item in the course of the meeting.<br><br>Chair Parachini stated they had not even approved the minutes yet.<br><br>Mr. Justus said they can proceed and it is not going to be a problem, right. | |

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| | Mr. Furfaro pointed out there had not been a motion to approve the agenda so that they can get to a discussion. If the discussion is dealing with the fact that perhaps the posting verbiage is wrong they can have that discussion as well, but also the County Attorney led up to the point that there is an agendaed clock for us to get to a completion date. If they get to the fact that perhaps it was posted wrong even though there was a 5/2 item back in March they still have to follow procedures about seeing if they can get the discussion set by having a motion to approve the agenda, get to the approval, have a discussion and then discuss it even further. If the argument is also that it was posted wrong - that was an interpretation from (Boards and Commissions) because it is exactly the same item that was put on back in March. Mr. Justus said it was not the same item.<br><br>Chair Parachini recognized Councilmember JoAnn Yukimura and asked if she was under a time constraint to which she indicated yes. Chair Parachini briefly recessed the meeting at 3:12 p.m. to confer with Staff.<br><br>Chair Parachini called for a motion to approve the minutes for the May 23, 2016, meeting.<br><br>Mr. Justus told the Chair that they had not approved the agenda yet. Chair Parachini pointed out that (approval of the agenda) is not on the agenda. | Ms. Stiglmeier moved to approve the minutes as circulated. Ms. Ako seconded the motion.<br><br>Motion carried 7:0 |
| | Chair Parachini said he would like to extend time to Councilmember Yukimura for item CRC 2016-15.<br><br>Ms. Yukimura said she saw on the agenda it was a reconsideration of the 5/2 district proposal and came to reiterate her testimony which she gave when that subject was on the agenda previously. | |

| SUBJECT | DISCUSSION | ACTION |
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| | Chair Parachini agreed it was valuable for Councilmember Yukimura to be there since there were two new members who were not involved in that earlier discussion.<br><br>Ms. Yukimura addressed the procedural issue stating that if the posting is incorrect they cannot discuss the matter on the agenda but they would have to repost it correctly at the next meeting. Going to the substance of the matter Ms. Yukimura was not aware of a new proposal which might not be the same as the last proposal so her testimony might be somewhat outdated. Her testimony is basically about the process of districting. Full and accurate disclosure of the choice the people are being asked to make is really important. The proposal that was last considered leaves apportionment and a lot of detailed actions to after the issue is put on the ballot and voted on. That concerns her a lot because people think of districting in that they can pick their person in their neighborhood, but in fact if the districts at the one vote, one person rule are crafted according to that rule they could be far larger than people think. The three representative districts are from the north shore to the Wailua River and that is many, many neighborhoods. The apportionment and the details need to be worked out before it is put on the ballot so people know exactly what they are voting for. When the exact districts are delineated it may not be what people voted for. Ms. Yukimura wanted to focus on the unintended negative consequences of districting and cited the example of the rail project (on O'ahu) noting that was because of the politics of people in districts, which is the kind of politics that can happen. What happens is the elected representatives are only thinking about their district so you have a lot of horse-trading and nobody is looking at the big picture, nobody is looking at the environmental impacts of something or the economic impacts of something in a proposed district as long as the person representing that district has some political pull and he can scratch somebody else's back to get that. Then there is the subterfuge which | |

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| | happened during the Hanalei boating issue so nobody would know who was behind it and the person doing the dirty work is untouchable by people who are being affected. At some point we will have to look at districts as population gets larger but there are many ways to district and she explained Maui's form of districting. Ms. Yukimura also cited the County Manager issue that Council looked at and its ethics code in which the allegiance and loyalties are to the town as a whole and not to any individuals or groups. Otherwise the decision making becomes fragmented and there is more separation with no clear accountability to the whole and the benefit of the common good. Ms. Yukimura previously asked about the conflict of interest of Commissioners who were looking at running for Council. Chair Parachini stated that was moot because the deadline for filing has passed. Ms. Yukimura said the thing will take effect in the next election and there are indications that there are desires to run which suggest a conflict of interest. Ms. Yukimura noted that Mr. Justus does have an opinion from the Ethics Board and said it was pretty dated and probably should be renewed. Mr. Justus said it was dated 2011 but by that standard that means any legislation or opinions or any case law is outdated because it is older. Ms. Yukimura said she wished the Ethics Board would do its decision-making by case law and precedence but doesn't always do it. Chair Parachini said a question he had when the Commission received Ms. Yukimura's original letter is he doesn't see how they could determine the district boundaries before this charter amendment was voted on because there is no way to convene an apportionment committee. You have to do the entire apportionment process to be able to put the district boundaries in the charter amendment that would be on the ballot.<br><br>Attorney Roversi said by the terms of the charter amendment that makes sense. As they are aware Attorney Roversi stated he has become this Commissions advisor within a matter of days and the districting proposal is a | |

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| | tentative proposal in the agenda that has not been approved by this Commission and hasn't officially been submitted to the County Attorney for review and he has not had the time or opportunity to consider all of its aspects.<br><br>Mr. Wong stated he was interested in making a motion based on some of the comments Councilmember Yukimura made and based on the timing and what the Commission has to do.<br><br>Mr. Justus called for a Point of Order saying they were on a communication and not on the particular agenda item or even in the section to be amending the agenda. We are receiving communication and you cannot make motions on that. You can make a motion to receive but you can't propose changes to the agenda during communication. Ms. Ako said the Commissioner just made a motion to amend the agenda and it was seconded.<br><br>Mr. Furfaro said they have an item that was opened up for public testimony. They should finish the testimony then come back to the order, look at the agenda then look at the motion that was made.<br><br>Mr. Perel noted he was not on the Commission during any of the discussion on the history and all he knows is from what he has read from the minutes and whatever was officially published. Mr. Perel asked Councilmember Yukimura if there was any form of county districting that would be acceptable to her so he can get a feel for what members of the Council feel about this. Councilmember Yukimura said she is not representing the Council, she is just representing herself. To answer his question there is none that she knows of at this point, however she is open to exploring the matter but she thinks there are a lot of minefields in creating a system and it | Mr. Wong moved to amend the agenda by removing CRC 2016-15 from the agenda. Ms. Ako seconded the motion. |

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| | really needs to be thought through. One of her thoughts was to create 7 positions, or somebody has suggested 5, and they would represent the whole island but they would be one-on-one competition – you would just say which position you want to go for and whoever applies to run for that position runs in that position and is voted on seat-by-seat by the community. Another system is a weighted vote by indicating a first choice, second choice, third choice. Mr. Perel said he asked because Ms. Yukimura indicated she is hearing from citizens that this would be problematic but he hears on the west side that it would be an ideal solution to the situation. Ms. Yukimura said people on the west side are thinking they can get their own representative but that means they can only lobby with 3 people on the 5/2 system. Now they can tell 7 people that if they don't do this they won't vote for you or if you do this I will vote for you. These districts cause hegemony. Those who think at-large think of the island and the problems of the island as something they all need to impact.<br><br>Mr. Justus said this is not the first time Councilmember Yukimura has brought up a potential conflict of interest. He understands the Board of Ethics opinion is dated 2011 but by that logic all case law prior to 2011 would also be invalid. Another point, Mr. Justus said he had already stated on public record that he would never run for a district seat. Making districts has nothing to do with him; it has absolutely nothing to do with any potential runs. The precinct results in the 2010 election the numbers were equal across the board and his appeal if there was one was as an at-large candidate. If to say he is trying to carve out districts for himself that argument would say he would be in favor of making smaller districts because of the area he resides in. Mr. Justus further stated he no longer has an interest in running for County Council and if he ever did he would run as an at-large candidate.<br><br>Ms. Yukimura said it does make a difference to her about Mr. Justus not | |

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| | running by district in terms of whether there is a conflict of interest or not. His reference was to not have smaller districts so he was talking about another proposal that she is not familiar with. Mr. Justus said a few years back when they had several sub-committees they looked at several different potential ways of doing districting. One was 3 districts, 4 at-large, another was 5 districts, 2 at-large and there was also 7 districts. Mr. Justus stated he is against 7 districts entirely because there has to be an at-large perspective in order to maintain objectivity. | |
| | Mr. Justus said due to the nature of the conflict that the agenda has regarding this particular item he would make a motion to amend the agenda. | Mr. Justus moved to amend the agenda to read proposed amendment of establishing a 5/2 Council district. |
| | Mr. Furfaro said there is a motion on the floor to approve the agenda before they make any modifications to it. Chair Parachini said they did not yet but asked if anyone wanted to move to approve the agenda. | Mr. Justus moved to approve the agenda. Mr. Stack seconded the motion. |
| | Mr. Furfaro said they could now entertain discussion and if there is a motion to amend the agenda they can consider it at this time. | Mr. Justus moved to amend the agenda for 2016-15 to read proposed charter amendment of establishing, etc. Mr. Perel seconded the motion. |
| | Mr. Wong said he originally wanted to move to delete the item from the agenda for the number of reasons heard today. | Mr. Wong moved to amend the amendment and delete (2016-15) from the agenda. Ms. Ako seconded the motion. |
| | Mr. Wong explained the reason for his amendment has nothing to do with whether or not this is something that is important to our community. We don't have the time right now to deal with it but we could have a posting problem which could make this all invalid even though we are trying to amend it. The bigger reason is it does not make sense to discuss today with | |

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| | all the items we have to get through – let's get through those items. Also, Staff is saying they don't have the time to get this item ready for the election. Let's bring this up in a time and manner that we can address it properly and not just make last minute decisions that might not be good anyway. Mr. Perel was concerned at how the language got changed from the original item that was put on the agenda if that was not what was originally proposed. Mr. Justus expressed his concern about how the language got changed by the Staff. Staff stated that the Chair approved the agenda. Mr. Furfaro also stated that what is on the agenda was approved by the Chair – not the Staff, not by Mr. Furfaro. Mr. Justus said when he presented it to the Chair it would go on as a proposed charter amendment, not with any particular date established, and yet what is on the agenda is not what was requested so the question is how do we resolve that conflict? Who convinced him this was a reconsideration?<br><br>Attorney Roversi said this discussion began with Mr. Justus proposing to amend this item which would solve the dilemma that they are presenting right now. That motion was then amended to remove the item from the agenda in total which renders this concern irrelevant for the purposes of the motion that is now before the board.<br><br>Mr. Justus asked the County Attorney in changing the name are they in violation of the public notice requirement for 6 days public notice.<br><br>Attorney Roversi said it was his opinion that the Commission has the authority to add or change agenda items with a two-third vote provided that the spirit of the sunshine law is not undermined. The spirit of the sunshine law is to provide adequate notice to the public so they may appear if they choose to provide testimony on the matter. To that point this agenda item is regarding establishing a 5/2 council districting proposal. Whether it is a | |

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| | reconsideration of a prior 5/2 districting proposal or a renewed motion for a very similar thing he would opine, and again Attorney Roversi said his opinion is his opinion and is up for reinterpretation by the Office of Information Practices, but it would be his opinion that the public has been provided adequate notice of the substance of the agenda item. Whether it is called a reconsideration or a renewed motion the Commission would be free to discuss the matter and it would be properly agendaed. That begs the question of the motion that is presently on the floor.<br><br>Chair Parachini said as to 2018 opposed to 2016 he did not see that difference when he saw that. Whether it is reconsideration or not is not a question that he addressed. The Staff did put on the agenda the matter he asked them to put on. He failed to notice is was for 2018 opposed to 2016. Mr. Justus asked if they would be safer in deferring this particular item to a special meeting to avoid any particular public notice practices.<br><br>Ms. Ako and Mr. Wong both called for the question. Chair Parachini repeated that Mr. Wong's motion is to amend Mr. Justus' amendment and to remove the item from today's agenda. | Roll Call vote to remove 2016-15 from today's agenda: Aye-Ako; Nay-Justus; Aye-Perel; Nay-Stack; Aye-Stiglmeier; Aye-Wong; Aye-Parachini. Motion carried 5:2<br><br>Roll call vote on approval of the agenda as amended: Aye-Ako; Nay-Justus; Aye-Perel; Aye-Stack; Aye-Stiglmeier; Aye-Wong; Aye-Parachini. Motion carried 6:1 |
| **Executive Session** | Chair Parachini called for a motion to go into Executive Session | Mr. Wong moved to go into executive Session at 3:48 p.m. Ms. Ako seconded the motion. |

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| | Mr. Justus stated there were two nays to which Chair Parachini asked for a Roll Call vote to go into Executive Session.<br><br>Mr. Perel asked if it was necessary to be in Executive Session to discuss these issues. Attorney Roversi said they are on the agenda as Executive Session items to receive the attorney's opinions and they are also on the Open Session to discuss in whatever way they see fit. | Motion carried 6:1 (Nay-Justus)<br><br>Roll Call Vote: Aye-Ako; Nay-Justus;<br><br>Aye-Perel; Aye-Stack; Aye-Stiglmeier; Aye-Wong; Aye-Parachini. Motion carried 6:1 |
| **Return to Open Session** | <u>Ratify Commission actions taken in Executive Session for items **ES-015, ES-016, ES-017 and ES-018**</u><br><br>Mr. Justus asked the County Attorney if there was anything in the opinions that he felt must be kept confidential from the public. Attorney Roversi said he could point to no specific item that was raised in the memoranda that is of earth-shattering importance or secrecy. Attorney Roversi pointed out this is a recurring discussion and the generalized purpose of Executive Session is to receive the Attorney's opinion. While he can't point to a specific item often times in other discussions there are issues raised that can come up in future litigation with the County. As a litigator for the County, Attorney Roversi said it is often better to err on the side of caution with an eye towards possible future liabilities. The Attorney said he could not point to a specific item here that would lead him to the belief that it will prompt litigation.<br><br>Chair Parachini asked Mr. Justus if there was a question or did he want to offer an amendment. Mr. Justus said he knew what the result would be but | After a brief recess the meeting resumed in Open Session at 4:12 p.m.<br><br>Ms. Stiglmeier moved to approve the actions taken in Executive Session. Mr. Wong seconded the motion. |

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| | he would do it out of principle.<br><br>Mr. Wong said he gets slightly offended that we deal with this, and this is only his third meeting. Government works in ways where there are rules and things that have to happen and what Mr. Justus is suggesting by always making these comments is that there is some sort of public issue with respect to Executive Session that we are hiding something from the public and that is not the case at all. Executive Session is there so we can get advice from counsel that is willing to provide guidance and advice – not because there may be something that is needing to be hidden from anybody. That is not the purpose of Executive Session – it is to provide their opinions. It is an important part of government; there is an opportunity when you come back into Open Session if there is something that needs to be disclosed or discussed it can be brought up. Once we as a Commission say that no matter what you tell us the people who come in here and expect their opinions and counsel to be confidential are not going to give you opinions and it is going to impact the ability for us to function unless we all come to realize that there is a purpose for Executive Session. If it gets abused then by all means we have an obligation to the people to not abuse Executive Session but we can't just every month imply there is something going on in Executive Session that isn't going on. That offends me a little bit and that is just a comment.<br><br>Mr. Justus said Mr. Wong was free to his opinion. Having been on this Commission for 5 years we have released many County Attorney opinions that once we ask the County Attorney if there was anything absolutely necessary to keep from the public we have agreed to release that information to the public. That way the public has more opportunity to participate in the discussion of the board that consists of members of the public. If there is nothing sensitive in there, there is no reason to keep it hidden. If there are things that are particularly of concern then that would be the time it has to be | |

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| | kept confidential because of the sensitive nature of what it is discussing. This is why Mr. Justus asked the County Attorney if there are things in there that are obviously this way. If you think that keeping everything in Executive Session, no matter what, is a good standard practice the question becomes when is it a good practice to release information?<br><br>Attorney Roversi said he stands by his current opinion that he sees nothing specific in there. Attorney Roversi said he would generally present that he quite quickly went over a multi-page memo from Mr. Dureza and his own multi-page memo, and maybe not necessarily at this moment, but it could be problematic to ask an Attorney who is sitting here to decide in thirty seconds whether everything you have just presented is kosher to be distributed to the public or not. That kind of spur-of-the-moment decision making could be problematic.<br><br>Chair Parachini noted he was very sympathetic to the predicament Attorney Roversi was having. He is new to the Commission and new to the issues being considered.<br><br>Mr. Stack cited Winston Churchill regarding giving the appearance of doing the right thing and in sympathy to Mr. Justus in that we regularly go into Executive Session it gives the appearance that we are hiding something. To that extent he would support having less Executive Sessions. Mr. Perel stated that perception is reality.<br><br>Chair Parachini said he did not disagree with Mr. Wong at all and he has always been someone who advocates for as complete openness as possible. When we get into the issue of legal advice it becomes a case-by-case basis and it doesn't trouble him that they are asked to consider releasing these opinions every meeting because no harm can be done by that. He did not | |

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| | think there was a mindset that the norm is to never make documents public.<br><br>Mr. Wong did not think that was what he suggested at all. What he is suggesting is that if you review the minutes of this Commission over time it appears we are hiding something because there is always the comment that there is something happening in Executive Session that we should release. If you want an opinion and you don't feel it is necessary to be protected let the Attorney know that this is going to be in Open Session so it then comes from the agenda. If you have things that you tell people to comment on and it is going to be in Executive Session they assume that we as a Commission are telling them that their opinions are something that are confidential. If we don't need it to be confidential we tell the Attorneys to give their opinion on this but it will be public and we don't go into Executive Session. | Motion to ratify carried 6:1 (Nay-Justus) |
| **Business** | CRC 2016-10 Discussion of public education strategy and how to relate to the voters full text online publishing versus summaries published in the newspaper (On-going)<br>a. Sample of 2014<br>b. 2016 Timeline for Charter Amendments<br><br>Mr. Furfaro suggested forming a subcommittee to go over some of the materials they have for both media and educational purposes. We have pricing to run these particular pieces in the "For Kaua'i" publication which gives us lots of time (exposure) because it is the same publication in circulation for a whole month. Also in getting the public education piece to radio we need to work closely with our public relations department and have them join the subcommittee. Ms. Davis pointed out they do not have time for a subcommittee because that takes two meetings and the materials for the ballot goes up to Public Information Office on July 1 to start writing (the | |

| SUBJECT | DISCUSSION | ACTION |
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| | educational piece). Mr. Furfaro said they need to have someone meet with him so they can meet with PR before Friday. Chair Parachini said he would be the one.<br><br>Ms. Davis pointed out that the educational piece from 2014 was included in the packet and asked if that was they format the Commission wanted to follow or do they have a different format, and how do they relate to the voters about the amendment for the changes to the Charter. The (entire text) can be published on line but how do they condense it in writing to give the public a sample idea of what is proposed.<br><br>Chair Parachini recalled that they decided last month they did not want to go with the "pro and con" format. They just want to go with a format that explains what the amendment is. Mr. Furfaro said they need to discuss the concept for the process. Educating the public goes up to the general election. Ms. Davis said what determines the timeline is if they can condense the educational piece to a point where it can be small enough to go out in the mail-out ballots and if that is the case it has to get to a printer, usually one on O'ahu because they are the ones who can print, fold, and insert into the mail-out envelope. That is what predicts the different timelines.<br><br>Ms. Davis said she did not know if there was any one (or two) pages that would be a good representation of the changes being proposed to correct the Charter. Chair Parachini said there is a risk to that because they could be accused of cherry-picking the examples. Ms. Stiglmeier said they could put a link to the document showing all the proposed changes then they won't be accused of cherry-picking what those changes are. Ms. Davis said in the past all amendments are posted on line through the County Clerk's Office at Elections, through the Charter Commission page, through the main page on the County's website with the links that go directly to them. But the problem | |

| SUBJECT | DISCUSSION | ACTION |
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| | we get every year is there are people who don't use the computer, don't have a computer, the computer is broke so we have to deal with educating people with paper. Mr. Justus said they did have that discussion 2 years ago and it was stated in the print media that the public can get full copies of the text at any public library. Ms. Davis said discussion of the public distribution is covered in the next agenda item.<br><br>Mr. Wong said he would have full confidence in the Chair to have a discussion with the Public Affairs (sic) team to come up with something to explain the corrective changes to the charter. | Mr. Justus made a motion that the Chair represent the Commission and meet with the Public Information Office to assist with the public education piece. Mr. Perel seconded the motion. Motion carried 7:0 |
| | <u>CRC 2016-14 Discussion of outreach for public education to include distribution points and media outlets</u><br><br>Chair Parachini noted the list of distribution areas in the packet and asked if the Commissioners could think of anything else they should do.<br><br>Mr. Wong said today everything is social media to which Staff said that the County does have a Facebook page. Mr. Justus strongly suggested using Ho'ike TV because a lot of people pay attention to that. Mr. Stack questioned if this information would be available in Braille or sign language. Chair Parachini asked why it would have to be available in sign language if it was a written document. Asked if the Commission had ever done Braille the Staff said no but the County does endeavor to accommodate anyone who makes a request for an alternate format within a reasonable time.<br><br>Ms. Stiglmeier suggested adding the State Office Building as a drop off | |

| SUBJECT | DISCUSSION | ACTION |
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| | point. Another suggestion was with the RSVP desks which is already part of the mass media list. Chair Parachini asked how many places at KCC (Kaua'i Community College) could benefit from having material like this available. Ms. Stiglmeier said Student Government is very important but the library currently is under construction so maybe with the One Stop Center which is the front Administrative building. Students also congregate in the cafeteria. Ms. Stiglmeier said if they are targeting the students then it would be John Constantino, but if they are looking at the employees they might want to get it to the Chancellor. Staff asked if there was one person at KCC who could make sure all the distribution points are covered. Ms. Stiglmeier said Lana Spenser was the Chancellor's secretary to which Mr. Furfaro said he would get hold of Lana and John Constantino.<br><br>Chair Parachini said in an election year where young voters are being courted by many political parties anything that can be done to extend that engagement and draw them into the participation process is good. Mr. Furfaro said he did not hear the outcome of having a couple of the Commissioners go on Ho'ike TV if they can make that happen. Chair Parachini said they first need to find out from Ho'ike what is possible as he was not aware that the Mayor's show was no longer happening. Mr. Justus said he was on the Board at Ho'ike and if you go to their place you can use their equipment so long as it fits into their schedule and broadcast as much as you want at no cost. Mr. Furfaro said he was just asking if this body wanted to do this so he can share the information with the Administration about a couple of the members going on TV. Chair Parachini asked who would be willing to do TV, service clubs, community outreach, or any opportunity that may come along. Ms. Ako said not TV but she would go out. Mr. Justus said he would consider TV. Mr. Furfaro said he would talk with J Robertson at Ho'ike. Mr. Justus said in the past he recalled it was the Chair and Vice Chair that went on television to explain the bill. | |

| SUBJECT | DISCUSSION | ACTION |
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| | Attorney Roversi offered a cautionary note that if an individual member of the board goes on television they should be cognizant of not editorializing it, but as a representative of the entire body to read the materials and present it in a very objective fashion.<br><br>Ms. Stiglmeier asked what if they take a different approach. On Ho'ike there is the capability of typing out the information that you want to get out to the public with a scrolling (script) listing the proposed changes and some of the educational piece. Chair Parachini asked how they would reduce the minor changes to the Charter to a crawler on TV. Ms. Stiglmeier suggested they would need to provide the link for those proposed changes.<br><br>Mr. Wong suggested that the Chair and Vice Chair would be appropriate to handle a conversation about the Charter issues if that comes up. Chair Parachini said one thing he anticipates may happen is this Commission being invited to do one or more KKCR appearances on this. Mr. Justus said normally it is the responsibility of the Chair to speak for the board. Mr. Furfaro said doing a media piece through Ho'ike is a presentation – if you go to the radio station it is a "Q&A". That goes back to Attorney Roversi's commentary about a very balanced…. Chair Parachini said he would have reservations about doing KKCR noting there are a couple of ballot questions that might ignite a certain level of controversy upon part of the public spectrum. While that is fine and healthy we should not be drawn into a confrontational situation like that so his inclination is that they be very careful what they say with radio. Ms. Stiglmeier said as far as radio if they approach us we should say we would be happy to do this as long as we specifically speak to what our proposals are and a bit on the education but no Q&A. | |

| SUBJECT | DISCUSSION | ACTION |
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| | Attorney Roversi said getting back to his comment about objectivity since the Commission is preparing public educational materials to be distributed publically all those materials be made available to an array of KKCR DJs who can do whatever shows they wish based upon the public information you are already providing.<br><br>Chair Parachini asked if they have ever worked with KQNG Radio in the past. Staff said we have done PSAs. Mr. Stack said KQNG Radio and KKCR have a certain style to their type of business and he is not sure if it is generic or neutral enough for our purposes. Ms. Davis reminded them that there are 7 proposals so it is not like a 30 second or 1 minute comment – whatever format they use it will take time to get this information out there, let alone to explain it. Ms. Ako suggested breaking it into 7 individual PSAs, which the Commission has done in the past, and what would be done again with PSAs.<br><br>Mr. Perel asked how we would not be willing to defend our decision to put something on the ballot for an amendment. What is the trepidation in answering questions because we have come to a decision as a board to propose something so shouldn't we then be able to defend it in a logical non-confrontational manner? Chair Parachini said it is a very slippery slope and particularly with creating a permanent Charter Commission because we would be asked if we were feathering our own nest. Are we perpetuating our own? The only way he could respond to that would be the amendment on the ballot says that we sunset so we would all be off the Commission. If the amendment passes, the Mayor appoints the Charter Review Commission. Mr. Furfaro said if the proposal passes it doesn't mean that those who have balances on their term that the Mayor could reappoint you but it is not automatic. | |
| **Announcement** | Next Meeting: Monday, July 25, 2017 – 3:00 p.m. – Location to be | |

| SUBJECT | DISCUSSION | ACTION |
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| | determined. | |
| **Adjournment** | | Mr. Justus moved to adjourn the meeting at 4:56 p.m. Mr. Stack seconded the motion. Motion carried 7:0 |

Submitted by: _____
Barbara Davis, Support Clerk

Reviewed and Approved by: _____
Allan Parachini, Chair

( ) Approved as circulated.
( ) Approved with amendments. See minutes of _____ meeting.

# Charter Amendment – Drop Off Areas

**Public Library (100 copies)**

Hanapēpē – Karen Ikemoto
Kapa'a – Greg Nitta
Kōloa – Ed Thorp
Līhu'e – Carolyn Larson
Princeville – Jennifer Relacion
Waimea – Susan Remoaldo

**Parks & Recreation - Neighborhood Centers (100 copies) – Give to Cindy Duterte**

| | | |
|---|---|---|
| Kīlauea | Kapa'a | Lihue |
| Kōloa | Kalāheo | Hanapepe |
| Kaumakani | Waimea | Kekaha |

**KCC (100 copies)**

Student Government – John Constantino
Library – Bob Kajiwara (Regina) (2016-under construction)
Miscellaneous areas – Lana Spenser, secretary to Chancellor

**Member Organizations**

Kaua'i Chamber of Commerce – carol@kauaichamber.org
Kaua'i Economic Development Board – stai@kedb.com
Kaua'i Visitors Bureau – skanoho@hvcb.org
Poī'pū Beach Resort Association – jody@poipubeach.org
Kaua'i Planning & Action Alliance – dzachary@kauainetwork.org
Līhu'e Business Association – patgriffin@hawaiiantel.net
West Kaua'i Business & Professional Association – mdnellis1@hotmail.com
North Shore Business Council – typaguy@yahoo.com
Hawai'i Hotel and Lodging Association – Jolene.ogle@marriott.com
Kaua'i Filipino Chamber of Commerce – filipinochamber@aol.com

**Rotary Clubs**

Rotary Club of Hanalei Bay - anncorr@hawaiiantel.net
Rotary Club of Kalepa Sunrise - marynavarro59@yahoo.com
Rotary Club of Kapa'a - dschneck@nationalsecurities.com
Rotary Club of Kaua'i - decosta2004@hotmail.com
Rotary Club of Po'ipū Beach - bprinzing@hawaii.rr.com
Rotary Club of West Kaua'i - rgt6568@yahoo.com

**Mass Media**

All Kaua'i Radio Stations as PSA
Midweek or For Kaua'i or The Garden Island
~~"Together We Can" - Hoike TV Show~~ Ho'ike (chair/vice chair)
KIUC Currents Magazine

Kaua'i County Website (includes link on Elections page) and County Facebook
Office of Elderly Affairs – RSVP
County Employees
State Building – Information desk

CRC 2016-14

062816

COUNTY OF KAUAI OFFICE OF COUNTY CLERK
ELECTIONS DIVISION
4386 RICE STREET, STE 101
LIHUE, HAWAII 96766-1819

PINK AREA
USPS EXCLUSION ZONE
23MM x 116MM

40% SCREEN

OFFICIAL ELECTION MAIL
Authorized by the U.S. Postal Service

Return Service Requested

**OFFICIAL ELECTION MATERIAL - FIRST CLASS MAIL**

1-1/8" x 4-1/2"

7/8"

1/2"

For information on ballot questions appearing on the GENERAL ELECTION ballot, visit:

**www.kauai.gov/elections**

or call the Kaua'i County Elections Division at (808) 241-4800.

**County Council- Partial Districting (Five Districts/Two At-Large)**

Section 1.03. County Elections.

C. Office of [At-Large] Council members.

1. For [at-large] council offices, two candidates for each vacant [at-large] council office receiving the highest number of votes in the primary election shall be placed on the ballot for the general election. (Amended 2012)

2. At the general election, the candidates receiving the highest number of votes for each vacant [at-large] council office shall be elected. (Amended 2012)

3. Tie votes. In the event of a tie vote for either the last remaining at-large council office or between candidates for a district council office in the primary election, the candidates receiving the same number of votes shall be placed on the ballot for the general election. (Amended 2012)

In the event of a tie vote for the last remaining at-large council office or between candidates for a district council office in the general election, the winner shall be determined by a method of chance as determined by the county clerk. (Amended 2012)

Section 3.02. Composition. There shall be a council of seven members [elected at-large]. Two members shall be elected at-large by all registered voters in the county. Each of the other five members shall reside in and shall be elected from a separate council district by registered voters residing in that separate council district.

Section 3.03. Terms. The terms of office of councilmembers shall be for two years beginning at twelve o'clock meridian on the first working day in December following their election.
No person shall be elected to the office for more than four consecutive

two year terms. Section 3.04. Qualifications.

A. To be eligible for the council, a person must be a citizen of the United States and must have been a [duly qualified elector] registered voter of the county for at least two years immediately preceding [his] the person's filing candidacy papers for

CRC 2016-15

election or appointment. In addition, those candidates for the council who file to represent one of the five council districts must declare which district they intend to represent and must be a registered voter of that district for at least the preceding ninety days. Should a councilmember move from, or be removed from, any of the seven council positions from which that person was elected, any replacement appointee must meet all requirements of a candidate forthat position.

B. Any [councilman] councilmember who removes [his] said councilmember's primary residence from the county or from the district that the councilmember represents, or is convicted of a felony, shall immediately forfeit [his] the office.

Section 3.19. District Election and Reappointment.

A. The first election by separate council districts shall be in the primary election of (2018) 2020.

B. The year 2023 and every tenth year thereafter shall be district reapportionment years.

C. An initial council district apportionment commission shall be constituted on or before the first day of April, (2017) 2019. A council district reapportionment commission shall be constituted on or before the first day of July of each district reapportionment year or whenever district reapportionment is required by court order. The commission shall consist of seven members. The members of the commission shall be appointed by the mayor and confirmed by the council.

The initial council district apportionment commission shall be responsible for designating the geographic boundaries of the council districts provide for above. The council district reapportionment commission shall be responsible for the reapportionment and redistricting of those districts.

The commission shall elect a chair from among its members. Any vacancy in the commission shall be filled in the same manner as for an original appointment. The commission shall act by the majority vote of its membership and shall establish its own procedures. No member of the commission shall be eligible to become a candidate for election or appointment to the council in the initial election held under any apportionment or reapportionment plan adopted by

the commission.

E. Any registered voter may petition the proper court to compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in the district apportionment or reapportionment plan, or the court may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition must be filed within forty-five calendar days after the filing of the plan.

F. The commission's tenure shall end upon the filing of its plan."

*(Deleted material is bracketed; new material is underlined)*

2 Ballot Question-

Effective (2018) 2020, shall five of the seven council members be elected by districts consistent with the "one person, one vote" principle (North, East, Central, South, West), and two of the seven council members be elected at-large, with a commission to be appointed in (2017) 2019 to establish district boundaries, and shall 2023 and every tenth year thereafter be a district reapportionment year?