

Allan Parachini  
Chair

Ed Justus  
Vice Chair

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

**COUNTY OF KAUAI CHARTER REVIEW COMMISSION  
NOTICE OF MEETING AND AGENDA**

Monday, September 26, 2016

**3:00 p.m.** or shortly thereafter

Mo'ikeha Building, **Liquor Conference Room 3**  
4444 Rice Street, Lihu'e, HI 96766

**CALL TO ORDER**

**APPROVAL OF MINUTES**

Regular Open Session Minutes of August 22, 2016

**BUSINESS**

CRC 2016-14

Update on outreach for public education to include distribution points and media outlets (Ongoing)

CRC 2016-17

Section 3.03 Proposal from Mr. Parachini as relates to staggered terms for councilmembers for the 2018 ballot

**ANNOUNCEMENTS**

Next Meeting: Monday, October 24, 2016, 3:00 p.m., 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](mailto: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:	<b>CHARTER REVIEW COMMISSION</b>		Meeting Date	<b>August 22, 2016</b>	
Location	Mo'ikeha Building, Meeting Room 2A/2B		Start of Meeting:	3:00 pm	End of Meeting: 3:33 pm
Present	Chair Allan Parachini; Members: Michael Perel; Patrick Stack; Russell Wong. Also: Deputy County Attorney Adam Roversi; Boards & Commissions Office Staff: Support Clerks Barbara Davis and Darcie Agaran; Administrator Jay Furfaro				
Excused	Vice Chair Ed Justus. Members: Merilee (Mia) Ako; Cheryl Stiglmeier				
Absent					
<b>SUBJECT</b>	<b>DISCUSSION</b>				
<b>Call To Order</b>	<b>ACTION</b>				
<b>Approval of Minutes</b>	<p><u>Regular Open Session Minutes of July 25, 2016</u></p> <p>Chair Parachini asked Mr. Perel if the first sentence in the first full paragraph on page 13 needed further clarification. Not recalling what he thought was subsequent Mr. Perel said he would leave it because it was a moot point.</p>		<p>Chair Parachini called the meeting to order at 3:00 pm with 4 Commissioners present which constitutes a quorum.</p> <p>Mr. Wong moved to approve the minutes as circulated. Mr. Perel seconded the motion.</p> <p>Motion carried 4:0</p>		
<b>Communication</b>	<p><u>CRC 2016-16 Memorandum dated 8/22/16 from Allan Parachini, Chair, to Jade Tanigawa, County Clerk, transmitting the County of Kaua'i Charter Amendment Ballot Questions for the 2016 General Election</u></p> <p>Attorney Roversi explained that after the last meeting and after all of the proposed amendments and ballot questions had been approved a problem was discovered in Article XIV as pertains to the Zoning Board of Appeals. The substance of the dilemma is that in the existing Charter under Article XXIII, §23.02 A it provides generally that all boards and commissions established by the charter shall consist of seven members whereas the Zoning Board of Appeals amendment as proposed, and the Charter</p>				
	<p><i>Open Minutes</i></p> <p><i>8/22/16</i></p>				

SUBJECT	DISCUSSION	ACTION
	<p>Commission approved, calls for five members. Attorney Roversi said he had a discussion with Mike Dahilig of the Planning Department and he had no objection to altering the proposed charter amendment to call for seven members instead of five. Because time was of the essence in getting things printed and ready to submit we made that change in the documents pending the Commission's final approval.</p> <p>Chair Parachini said there was a conversation at one point about the enumeration of the qualifications of the members. Does changing from five to seven touch that paragraph (§14.12) at all?</p> <p>Attorney Roversi said you would now have 3 members whose qualifications are designated as originally proposed and the remaining members would be members of the general public.</p> <p>Mr. Wong asked if there was different language from what they were reading (in the meeting packet).</p> <p>Attorney Roversi said the only thing that has been changed is instead of saying five (members) it should say seven (members).</p> <p>With the makeup of the membership Chair Parachini said there was some wiggle room with the words "at least one member".</p> <p>Attorney Roversi said that would remain unchanged and provided the Commission approved the change.</p> <p>Mr. Wong asked if the Commission had the ability to approve (the change) at this one meeting to which Attorney Roversi said since it does not substantially change the substance of the proposed amendment it does not</p>	

SUBJECT	DISCUSSION	ACTION
	<p>require a renewed public hearing.</p> <p>Mr. Stack asked if it was a typographical error to which Attorney Roversi said it was just a conflict with another section of the Charter that we did not catch. The original intention of proposing five was out of concern for the difficulty in finding volunteers for commissions generally and why a reduced number was selected. But we are not allowed to create a reduced number on a board or commission that is created by Charter – the Charter tells us it has to be seven members. On review it seems there is no choice and electing a board of five is not an option under the current Charter.</p> <p>Chair Parachini asked Mr. Furfaro if at any one time there are commissions and boards that are not up to full strength. Mr. Furfaro said the intent is to always have seven members but it is more about the attendance and vacancies. There are boards right now that do not have seven members. Asked if it impeded their ability to act Mr. Furfaro said as long as they have a quorum during their business and with the intent of there being seven members, but he would refer that to the County Attorney.</p> <p>Attorney Roversi said that would be correct; if there were only five in attendance they would still meet quorum and they could still meet even if they had the intention of ultimately having seven appointed members.</p> <p>Mr. Wong said from decision making on behalf of the public benefit we are probably better off with seven members. If we were doing it as a matter of convenience because it is so difficult to find seven members you are probably going to get a broader decision making if you have seven members and probably have better decisions than if you just had five. Mr. Wong did not see the negativity in making the change to seven other than it becomes more difficult for the County to find seven volunteers than five.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Parachini said in a sense when Mr. Dahilig first brought this to us he described the situation as one in which the workload of appeals cases and the need to hire outside hearings officers was starting to get the better of the Planning Department. This was really about workload distribution as much as it was about anything else, so if there are seven members on the commission then the workload distribution would be easier to effect than harder if they are going to be hearing appeals.</p> <p>Mr. Stack said he thought they were all in agreement that seven is the right and proper number and asked who made the singular decision to print the word five instead of the proper word seven and was that an intention. It is important to not only be doing the right thing but appear to be doing the right thing.</p> <p>Mr. Furfaro said originally the Planning Director in his proposal had proposed five and not seven. The discussion as recorded was always on five. It was fortunate for us that in the review process the County Attorney found out there is a conflict with a five member board when it relates to the verbiage that is in the Charter. Mr. Stack said no one has a problem with just arbitrarily saying it is seven, or negating the five is a better way of saying it. Mr. Furfaro said he did not necessarily think it is arbitrarily negating the five – the fact of the matter is we need to follow the Charter. If we are not following the Charter we have a bigger problem to which Mr. Stack agreed and said that cleared it up for him.</p> <p>Mr. Perel said with five (members) there were three folks with expertise in various fields that affect zoning and two at-large citizens which meant the three experts would hold a certain amount of sway and power over the decision making. Now it would be four (at-large) and three and asked if</p>	<p>Mr. Perel moved to approve the change to seven members. Mr. Wong seconded the motion.</p>

SUBJECT	DISCUSSION	ACTION
	<p>that had an impact. Mr. Furfaro said as expressed by the County Attorney with three experts we have the majority of the at-large to be able to be listening to the expert testimony about a bill (sic) and perhaps the individuals making those proposals should have an understanding from testimony from the three experts on the rationale behind the change or an appeal or a review. There is nothing that says the fourth at-large commissioner could not be skilled with one of the three; it says "at least" one member.....</p> <p>Attorney Roversi informed the Commission that he had that discussion with the Planning Director who proposed this amendment and as the proposing entity he had no issues with the qualifications remaining only for the three.</p> <p>Chair Parachini said it has been moved and seconded to change the word five to seven in the proposed section 14.12 so it reads "The board shall consist of seven members appointed by the mayor with the approval of the council."</p>	<p>Motion carried 4:0</p>
<p><b>Business</b></p>	<p><u>CRC 2016-10 Final review of Voter Education explaining the County Charter Amendments Proposed in the 2016 General Election (Ongoing)</u></p> <p><u>CRC 2016-14 Update on outreach for public education to include distribution points and media outlets (Ongoing)</u></p> <p>Mr. Furfaro noted that he and Chair Parachini visited with Ho'ike and he will let the Chair report on that. Mr. Furfaro did meet again with For Kaula'i newspaper and looked at the pricing associated with the centerfold in their September issue that would allow us 4 pages of narrative of the pros and cons of each particular bill (sic) and it seems to fit our budget. There is another portion about a run-off print in 3,000 increments with a</p>	

SUBJECT	DISCUSSION	ACTION
	<p>shopping list of locations that we could provide that general information list to such as public libraries and our senior centers on educational background on each of these particular amendments. We are clear financially to get that printed once we have the final approval from the County Attorney on the verbiage that was proposed. There are the radio spots in addition to Ho‘ike but we should have some additional dialogue about using the radio station on the North Shore and who would be doing the particular piece so that it does not end up in a Q&amp;A type session. The deadline for us For Kaula newspaper would be September 10<sup>th</sup>. Mr. Furfaro said he would leave the representatives for Ho‘ike up to the Commission as to who would be able to do the television piece.</p> <p>Chair Parachini said they did meet with J Robertson at Ho‘ike and they are more than willing to bend over backwards to help us out. They offered to produce an in-studio panel discussion in which we would be able to describe all of the charter amendments – we could even throw a County Clerk piece in reminding people about registration requirements, polling places, early voting and all of that. A great solution since our ability of sitting Commissioners to discuss the merits, the advantages and disadvantages of each amendment would be if the moderator was someone who knows the material and knows the Commission and has some media experience. That person could be Jan TenBruggencate. There was a further discussion about whether there should be another person on the panel and Commissioner Stiglmeier’s name came up because she has some television experience and is known to Ho‘ike producers as someone who has been on their air before, knows the drill, and knows how the studio works. Everyone would be welcome to join in but at the moment the taping would be in one hour-and-a-half or two hour block sometime in mid-September with the air date.....it was interesting when the election results came in to see that the early and absentee ballot totals exceeded the walk-in polling</p>	

SUBJECT	DISCUSSION	ACTION
	<p>place totals which further underscores how the reality has changed. We are no longer talking about anything that peaks for election day – we have to have all the information we are going to have out for people by the time the first absentee ballots are due and that is three weeks before election day. Our air date target needs to be late September, very early October at the latest. It all seems doable. There was a meeting with us and two from For Kua'i and they seem to be very open to giving us everything we could possibly want for a very reasonable amount of money. In terms of KKCR they have to ask us (to participate) – it is not unlikely they will want to have some segment and he would guess that it would be Felecia Cowden's program but we can't assume anything. If there was such an invitation from KKCR Chair Parachini said he supposed the most logical person to do it would be him although that could be a challenge. The issue with KKCR is that their call-ins are unfiltered and you do not know who is going to call or what they are going to say or what they are going to ask you, so it is potentially challenging. Mr. Furfaro added that it is very challenging simply because there are 7 amendments and the Q&amp;As are going to come in on everything and we need to deliver information on both sides rather than open a discussion about things that weren't approved by the Charter Commission. Chair Parachini asked the Commissioners for other thoughts that had not been put on the table yet of things they could or should do to get the word out.</p> <p>Mr. Wong said when they were talking about the educational piece were they going to provide pros and cons or just the amendment and the reasons why we voted to approve the amendment. Is it normal to have charter amendments giving the reasons it should pass and the reasons it shouldn't pass.</p> <p>Chair Parachini said it has happened both ways in the past but our clear</p>	

SUBJECT	DISCUSSION	ACTION
	<p>consensus was we wanted to stick with the language developed by the Public Information Office. In the meeting with the For Kāua‘i people the conversation came back to what if people want some examples of these minor changes. If they were randomly selected we might be able to work with them with a little bit of imagination to pick two or three examples of those minor changes so people could understand what we are talking about. The language we have now someone could still reasonably say give me a for instance and we would be better off if we did.</p> <p>Mr. Wong said he did not know what the thoughts of the educational objectives are but for example the fire chief is going to report to the fire commission. If you are going to present pros and cons to that someone may say if you want the fire chief to continue to report to the mayor then vote no. We should not be educating them in that manner. When you say pros and cons Mr. Wong did not know how deep they would get into explaining what this means and what this doesn't mean in each example.</p> <p>Chair Parachini said they have received and approved the language that was drafted by Sarah Blane. Mr. Wong said when they say they are going to present pros and cons in the article it is not pros and cons – we are just going to present the language that was approved to which the response was correct.</p> <p>Chair Parachini said the challenge on the one amendment that relates to typographical non-substantive changes people could reasonably be expected to want to be given some examples of what we are talking about, which the public education materials at this point don't include. A way to defensively select two or three of those at random would be a disinterested party such as someone working at For Kāua‘i who could close his or her eyes and page through that amendment stopping wherever their finger</p>	

SUBJECT	DISCUSSION	ACTION
	<p>stopped on the page - that would be example number one.</p> <p>Ms. Davis explained that their meeting packet contains the information that will be going to the County Clerk and what they will be printing in The Garden Island newspaper; it does contain the first three Articles showing these examples. On the last sheet of the mass media distribution it lists the County's website of which there are 5 locations on that website that will have links back to the entire full changes in the Charter. Ms. Davis further confirmed that the educational material that goes into the voting locations will be handled by the Elections Office.</p> <p>Mr. Stack asked if the Commission needs to discuss the proposed appointment of Jan TenBruggencate as a spokesperson for this body. The Chair did not think he would be the spokesperson but rather the moderator of the Ho'ike program. Mr. TenBruggencate was asked but only because we needed to find out if he was available. Mr. Stack said he holds Mr. TenBruggencate in the highest regard. He is often times in awe of Jan's ability and his friendship has been steadfast so he personally would endorse that selection. However, it seems pretty arbitrary when there are a lot of other people who could do the job. Mr. Stack was Chair of this Commission in the last election and they went through a similar situation. The last thing he wanted to do was go on television with the Mayor and answer questions but as the Chair he felt the obligation to do that. He is simply saying there are other people besides Jan who might be equally qualified and who comes to mind immediately is Sherman Shiraishi. Mr. Shiraishi has been Chair of this body; he is also an attorney who is well liked and respected in the community. In short Mr. Stack wondered if it was not the Chair's responsibility to be the de facto spokesperson for this action. Chair Parachini said he intends to be involved in that program. The dilemma is that no sitting member of the Commission can respond to</p>	

SUBJECT	DISCUSSION	ACTION
	<p>some questions about what pros and cons are, why should I or should I not vote for this whereas a disinterested moderator can have that expository role that a sitting Commissioner probably can't. Chair Parachini said the reason he had thought of Mr. TenBruggencate is that he is aware of all of the issues voted to go on the ballot this year and would not need any time or effort to come up to speed on all of them. The Chair said he did not have any investment in who it is but given there is no Mayor's show anymore there needs to be someone who is the moderator who is not a Charter Commission member so those who are members can't be accused of playing a "sales role".</p> <p>Mr. Furfaro said he knows Mr. Shiraishi fairly well and it is possible to raise the question with him and it is possible to consider the two gentlemen. Mr. Furfaro said long-time kamaainas really relate to the Shiraishi name as it relates to the charter. (Sherman's) dad was very instrumental in the draft of the charter from the very beginning. It was agreed that Mr. Furfaro should make the query.</p> <p>Mr. Perel said based on the Chair's brief comment was he saying they should not be advocating in favor of these charter amendments even though they passed them. Chair Parachini said they have had this conversation and the understanding he got was our ability to be advocates is very limited. We have said what we can say by voting them onto the ballot. Can we make a marketing case why someone should vote yes or no on any of them – that gets much murkier.</p>	
<b>Announcements</b>	Next Meeting: Monday, September 26, 2016 – 3:00 p.m.	
<b>Adjournment</b>		Mr. Wong moved to adjourn the meeting at 3:33 p.m. Mr. Perel seconded the motion. Motion carried 4:0

Charter Review Commission

Open Session

August 22, 2016

Page 11

Submitted by: \_\_\_\_\_ Reviewed and Approved by: \_\_\_\_\_  
Barbara Davis, Support Clerk Allan Parachini, Chair

- Approved as circulated.
- Approved with amendments. See minutes of \_\_\_\_\_ meeting.



## COUNTY OF KAUA'I CHARTER REVIEW COMMISSION

### **PUBLIC EDUCATION – COUNTY WEBSITE**

The only Charter Amendments were proposed by the Charter Review Commission for the 2016 election. This 'document' was posted in the following places on the County website:

1. Residents Home Page – Under STAY CONNECTED Announcements & Current Events module
2. Main Home Page – Under STAY CONNECTED Announcements & Current Events module
3. Charter Review Commission
4. Elections Page – Link to the Charter Commission webpage
5. Boards and Commissions Page
6. County Facebook

Full Ramseyer version of Charter

*CRC 2016-14*

## Legal Notice

### Amendments to the Charter of the County of Kaua'i and Ballot Questions County of Kaua'i November 8, 2016 General Election

Pursuant to Hawai'i Revised Statutes § 50-11 and Article XXIV, Section 24.03, of the County of Kaua'i Charter, the Kaua'i Charter Review Commission is publishing the following Proposed Amendments to the County of Kaua'i Charter, which the Commission has approved for inclusion on the 2016 general election ballot.

#### 1. Proposing a Charter Amendment to the Charter of the County of Kaua'i (2015 Codified Version) Articles I – XXXII relating to correcting gender neutrality, grammatical, spelling, and formatting errors.

**Ballot Question:** Shall the charter be amended throughout to ensure that its language is to the greatest extent possible gender neutral and to make changes to spelling, capitalization, punctuation, formatting, and grammar?

**Background:** Since its adoption in 1968, the County Charter has been amended several times, resulting in inconsistencies in word usage and formatting, as well as grammatical errors. Further, the charter refers to gender-specific positions, such as "councilman" and "chairman."

**Purpose:** The purpose of this amendment is to correct grammatical and formatting errors in the document, without altering the meaning or purpose of its content. This amendment also seeks gender neutrality by changing terms such as "councilman" to "councilperson" and "chairman" to "chair."

Charter Amendment.

Articles I – XXXII of the Kaua'i County Charter are amended to read as follows: (the following is a sample of proposed changes; to review all proposed corrections to the charter please go to [www.kauai.gov/charter](http://www.kauai.gov/charter) )

Note: Charter material to be repealed is bracketed. New charter material is underscored.

### The Charter of the County of Kaua'i (2015 Codified Version)

#### ARTICLE I THE COUNTY AND ITS GOVERNMENT

**Section 1.01. Incorporation.** The people of the [~~county of Kaua'i~~] County of Kaua'i are and shall continue to be a body politic and corporate in perpetuity under the name of [~~"county of Kaua'i,"~~] "County of Kaua'i", referred to hereinafter as the "county[.]".

**Section 1.02. Geographical Limits.** The islands of Kaua'i and Ni'ihau and all other islands lying within three nautical miles off the shore thereof, and the waters adjacent thereto, shall constitute the [~~county of Kaua'i~~] County of Kaua'i with its county seat at Lihu'e.

#### Section 1.03. County Elections.

A. Nonpartisan [~~Elections~~] elections. County elections shall be conducted in accordance with the state election laws [~~of the State~~] insofar as applicable, but all elective county officers shall be elected by nonpartisan elections. (Amended 2012)

(TGI- 10/5/16) (FOR Kauai)

B. Offices of the [~~Mayor and Prosecuting Attorney.~~] mayor and prosecuting attorney.

1. For the offices of mayor and prosecuting attorney, the names of the two candidates receiving the highest number of votes for these offices in the primary election shall be placed on the ballot for the general election. However, if there is only one candidate for each of said offices, such candidate shall be elected in the primary election. (Amended 2012)

2. At the general election, the candidates receiving the highest number of votes for mayor and prosecuting attorney shall be elected. (Amended 2012)

3. Tie votes. In the event of a tie vote for mayor and prosecuting attorney in the primary or general election, the winner shall be determined by a method of chance as determined by the county clerk. (Amended 2012)

C. Office of [~~At-Large Council members.~~] at-large councilmembers.

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 the last remaining at-large 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 in the general election, the winner shall be determined by a method of chance as determined by the county clerk. (Amended 2012)

### ARTICLE III COUNTY COUNCIL

**Section 3.01. Legislative Power.** The legislative power of the county shall be vested in and exercised by the county council, except as otherwise provided by this charter.

**Section 3.02. Composition.** There shall be a council of seven members elected at-large.

**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 of December following their election. No person shall be elected to the office of councilmember for more than four consecutive two year terms. (Amended 1980, 1984, 2006)

**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 of the county for at least two years immediately preceding [~~his~~] such person's election or appointment.

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

C. The council shall be the judge of the qualifications of its members and for that purpose shall have power to subpoena witnesses, take testimony and require the production of records. Decisions made by the council in the exercise of the powers granted in this subsection shall be subject to review by the Fifth Circuit Court of the State of Hawai'i.

**Section 3.05. Vacancy in Office.** In the event a vacancy occurs in the council, the remaining members of the council shall appoint a successor with the required qualifications to fill the vacancy for the unexpired term. If the council is unable to fill a vacancy within ~~[(30)]~~ thirty days after its occurrence, the mayor shall make the appointment to such vacancy. The foregoing provisions shall apply in the event a person elected as ~~[councilman]~~ councilmember dies before taking office; provided, however, that the vacancy shall be filled by the newly elected council within thirty ~~[(30)]~~ days after the beginning of the new term.

**Section 3.06 Compensation.** The salary of each councilmember shall be established in accordance with the provisions of ~~[Article]~~ article XXIX of this ~~[Charter.]~~ charter. (Amended 1988, 2006)

**Section 3.07. Organization of Council; Officers; Rules; Employees.**

A. The council shall meet in the council room at the county building or in the Kaua'i War Memorial Convention Hall for its organization promptly after its inauguration and swearing-in ceremony at which time it shall elect one of its members as ~~[chairman]~~ chair and presiding officer of the council. Until such time as the ~~[chairman]~~ chair is elected, the mayor shall preside at the council meetings, provided that the mayor shall not have a vote. The council shall also elect one of its members as ~~[vice-chairman]~~ vice-chair who shall act as the presiding officer in the event of the ~~[chairman's]~~ chair's absence. The council shall appoint a presiding officer pro tempore from its members in the event of the absence of both the ~~[chairman]~~ chair and ~~[vice-chairman.]~~ vice-chair. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action. (Amended 1984)

B. The council shall adopt such rules as it may deem necessary for the organization of committees and the transaction of its business.

C. The council shall keep a journal of its proceedings.

D. The council may, upon an affirmative vote of at least two-thirds of its entire membership, suspend without pay for not more than one month any member for disorderly or contemptuous behavior in its presence. The presiding officer or the council by a majority vote may expel any other person who is guilty of disorderly, contemptuous, or improper conduct at any meeting.

E. The council shall meet regularly at least twice in every month at such times as the council may prescribe by rule. Special meetings may be held on the call of the mayor, ~~[chairman]~~ chair, or by five or more members. All council and council committee meetings shall be open to the public except as provided for in ~~[Chapter]~~ chapter 92, Hawai'i Revised Statutes. (Amended 2008)

F. Council Staff. The council may appoint the necessary personnel for the transaction of its business, and such appointments shall be subject to the civil service and classification requirements. The ~~[chairman]~~ chair of the council shall be the administrative officer of the staff employees. (Amended 2008)

**2. Proposing a Charter Amendment to Article XII expanding the duties of the Fire Chief and defining Authority to Execute Powers and Duties**

**Ballot Question:** Shall the duties of the fire chief be clarified to include duties currently performed such as addressing hazardous materials, emergency medical services, and ocean safety, and shall the reference to the mayor's authority to assign duties be removed?

**Background:** The section of the County Charter relating to the Fire Department was created before the Fire Commission was formed. Therefore, the current language of the Charter does not specifically identify lines of authority in assigning duties. Additionally, the Department has broadened its scope beyond fire control, to include such functions as ocean safety, hazardous materials, and emergency services, which are currently not reflected in the charter.

**Purpose:** This amendment would appropriately describe the current functions of the fire chief and the Fire Department, as they relate to duties and authority.

Charter Amendment.

Article XII of the Kaua'i County Charter is amended to read as follows:

Note: Charter material to be repealed is bracketed. New charter material is underscored.

## ARTICLE XII FIRE DEPARTMENT

Section 12.01. Organization. There shall be a fire department consisting of a chief, a fire commission, and the necessary staff. (Amended 2006)

Section 12.02. Fire Chief. The fire chief shall be appointed and may be removed by the fire commission. ~~[He]~~ The fire chief shall have had a minimum of five years of training and experience in fire prevention and ~~[control]~~ operations in private industry or government service, at least three years of which shall have been in a responsible administrative capacity. (Amended 1980, 2006)

Section 12.03. Powers, Duties, and Functions. The fire chief shall be the administrative head of the fire department and shall:

A. Appoint, train, equip, supervise and discipline the personnel of the fire department in accordance with department rules and civil service regulations.

B. Provide ~~[an]~~ for a safer community through effective ~~[program and]~~ leadership and programs ~~[for county-wide]~~ in fire prevention, ~~[fire control and]~~ fire operations, hazardous materials, emergency medical services, ocean safety, rescue operations and all hazards.

C. Control, manage and account for all property in the custody of the fire department.

D. Execute such other powers and duties as may be prescribed by law ~~[or assigned by the mayor]~~.

Section 12.04. Fire Commission. There shall be a fire commission consisting of seven members. Commission members shall be appointed by the mayor and approved by the council and be otherwise governed by the provisions of section 23.02 of the charter. (Amended 2006)

Section 12.05. Powers, Duties, and Functions of the Fire Commission. The fire commission shall:

A. Adopt rules necessary for the conduct of its business and review rules for the administration of the department.

B. Review the annual budget prepared by the fire chief and make recommendations thereon to the mayor and the council.

C. Review the department's operations, as deemed necessary, for the purpose of recommending improvements to the fire chief.

D. Evaluate at least annually the performance of the fire chief and submit a report to the mayor and the council.

E. Hear complaints of citizens concerning the department or its personnel and, if the commission deems necessary, make recommendations to the fire chief on appropriate corrective actions.

F. Submit an annual report to the mayor and the council regarding its activities.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department. (Amended 2006)

### 3. Proposing a Charter Amendment to Article XIV Establishing a Zoning Board of Appeals to assist the Planning Commission in providing a due process for Appellants

**Ballot Question:** Shall a zoning board of appeals be established to hear appeals from decisions of the planning director and to conduct evidentiary hearings at the request of the planning commission?

**Background:** The rising number of contested case hearings has increased the need for the Planning Commission to hire hearings officers. The proposed Zoning Board of Appeals would be a seven-member board that would hear appeals regarding zoning and subdivision ordinances and would conduct evidentiary hearings. The creation of a Zoning Board of Appeals would eliminate the need to continuously hire hearings officers. The members of the proposed board would not be compensated and would be appointed by the mayor with the approval of the council.

**Purpose:** This amendment establishes a Zoning Board of Appeals that would hear appeals of the planning director's decisions regarding violations of the zoning and subdivision ordinance, thereby eliminating the need to hire hearings officers to perform this duty.

Charter Amendment.

Article XIV of the Kaua'i County Charter is amended to read as follows:

Note: Charter material to be repealed is bracketed. New charter material is underscored.

## ARTICLE XIV PLANNING DEPARTMENT

**Section 14.01. Organization.** There shall be a planning department consisting of a planning commission, a zoning board of appeals, a planning director, and the necessary staff.

**Section 14.03. Duties and Functions of the Planning Commission.** The planning commission shall:

- A. Advise the mayor, council and planning director in matters concerning the planning program for the county.
- B. Review the general plan and development plans and modifications thereof developed and recommended by the planning director. The commission shall transmit such plans with its recommendations thereon, through the mayor, to the council for its consideration and action.
- C. Review zoning and subdivision ordinances and amendments thereto developed and recommended by the planning director. The commission shall transmit such ordinances with its recommendations thereon, through the mayor, to the council for its consideration and action. The commission shall recommend approval or rejection of such ordinances in whole or in part and with or without modifications.
- D. Hear and determine [~~petitions~~] applications for [~~varying the application~~] variance from [~~of the~~] zoning and subdivision ordinances with respect to a specific parcel of land and may grant such a variance pursuant to [~~variance~~] provisions established by the council [~~in the zoning~~] by ordinance.
- E. Adopt regulations having the force and effect of law pertaining to the responsibilities of the department.

- F. Prepare a capital improvement program with the advice of the mayor, complementing and reflecting the [S]state and [F]federal [P]programs for the [C]county.
- G. Have the discretion to refer hearings to the zoning board of appeals. Once the planning commission refers a matter to the zoning board of appeals, the zoning board of appeals shall make all Findings of Fact, Conclusions of Law and Decisions and Orders without further review or approval by the planning commission.

[G] H. Perform such other related duties as may be necessary to fulfill its responsibilities under this charter.

**Section 14.12. Zoning Board of Appeals.** The board shall consist of seven members appointed by the mayor with the approval of the council. Board membership shall be representative of the community, and at least one member should have knowledge and awareness of environmental concerns by way of the person's education, training, occupation, or experience; at least one member should have knowledge and awareness of business concerns by way of the person's education, training, occupation, or experience; and at least one member should have knowledge and awareness of labor concerns by way of the person's education, training, occupation, or experience.

**Section 14.13. Duties and Functions of the Zoning Board of Appeals.** In accordance with such principles, conditions and procedures prescribed by ordinance or administrative rule, the zoning board of appeals shall:

1. Conduct hearings in accordance with Chapter 91, Hawaii Revised Statutes regarding the violation of the zoning and subdivision ordinance and the regulations adopted thereunder;
2. Hear and determine appeals alleging error from any person aggrieved by a decision or order of the director regarding the application, interpretation or enforcement of zoning and subdivision ordinances as prescribed by ordinance;
3. Conduct hearings for land-use-related appeals which the board may be required to pass on pursuant to the charter or ordinance; and
4. Adopt rules of procedure for the conduct of the board's business.

The zoning board of appeals shall be part of the department for administrative purposes and the county shall provide necessary training, administrative, and legal assistance to the board.

**Section ~~[14.12]~~ 14.14. Appeals.** Appeals from any decision of the planning commission or the zoning board of appeals shall be instituted in the circuit court within thirty ~~{(30)}~~ days after service of a certified copy of the decision of the commission or the board. All commission and board proceedings and appeals shall be in conformity with the Hawai'i Administrative Procedure Act.

#### **4. Proposing a Charter Amendment to Article XVIII Relating to the Civil Defense Agency**

**Ballot Question:** Shall the county Civil Defense Agency be renamed the Emergency Management Agency and its organization clarified consistent with state law?

**Explanation:** Hawaii State law recently renamed the "Civil Defense Agency" to the "Emergency Management Agency." Therefore, the current language of the Charter referring to the Civil Defense Agency is inconsistent with state law. Additionally, the Charter does not currently assign a department administrator or director.

**Purpose:** This amendment seeks to establish an administrator of the County Emergency Management Agency, and ensures that the Charter language is consistent with State law by renaming the Civil Defense Agency to the Emergency Management Agency.

Charter Amendment.

Article XVIII of the Kaua'i County Charter is amended to read as follows:

Note: Charter material to be repealed is bracketed. New charter material is underscored.

**ARTICLE XVIII**  
**[CIVIL DEFENSE AGENCY] EMERGENCY MANAGEMENT AGENCY**

Section 18.01. [Civil Defense Agency.] Emergency Management Agency. There shall be [a civil defense agency] an emergency management agency whose powers, duties, functions and organization shall be as provided by law.

Section 18.02. Mayor to Declare State of Emergency. The power to declare a state of disaster or emergency is conferred on the mayor. The mayor may declare an emergency when the peace, life, property, health or safety of the community are endangered~~[, but his failure or refusal to make such declaration shall not preclude the county council from finding that an emergency exists providing that the county council adopt an emergency ordinance in accordance with the charter].~~ (Amended 1984)

Section 18.03. [Civil Defense Contingency Fund.] Emergency Management Contingency Fund. The council shall provide in the annual budget [a civil defense contingency fund] an emergency management contingency fund of not less than \$50,000.00 to be expended by the mayor for public purposes during any state of emergency or disaster. A report containing a complete accounting of all such expenditures shall be made as soon as practicable to the council. (Amended 1984)

Section 18.04. Organization. The county, under the mayor's direction, shall provide a county-level administrator or director of the county emergency management agency, and technical, administrative, and other personnel; office space; furniture; equipment; supplies; and funds necessary to carry out the purposes of this chapter. The administrator or director of the county emergency management agency shall be subject to chapter 76 of the Hawai'i Revised Statutes.

- 5. Proposing a Charter Amendment to Articles XXII and XXIV relating to the percentage of required voters for an initiative petition, a referendum petition, or a charter amendment petition and to specify what is a charter amendment as well as to enable the county clerk to determine whether the proposal is a valid charter amendment.**

**Ballot Question:** Shall the percentage of registered voter signatures required to start the initiative or referendum process be reduced to 10 percent from 20 percent, and shall the percentage of registered voter signatures required to start the charter amendment process via voter petition be increased to 10 percent from 5 percent?

**Explanation:** Currently, the Charter requires that voters seeking to propose an ordinance or referendum by petition be signed by no less than 20 percent of registered voters in the previous general election. A charter amendment by petition must be signed by no less than five percent of the number of registered voters in the prior general election. This creates an inconsistency in the percentage of voters required to change, enact or reject county laws, and to amend the County Charter.

**Purpose:** This amendment seeks to decrease the number of registered voters required to propose an initiative or referendum, from 20 percent to 10 percent of registered voters in the prior election. It also seeks to increase the percentage of voters required to propose a charter amendment by petition from 5 percent to 10 percent. This makes the required percentage consistent at 10 percent for those wishing to propose an ordinance, referendum or charter amendment.

**Ballot Question:** Shall it be specified what constitutes a charter amendment, and shall the processing of a proposed charter amendment via voter petition be revised to enable the county clerk to determine whether the proposal is a valid charter amendment?

**Explanation:** The Charter currently requires that a charter amendment petition be presented to the County Council. It does not define a charter amendment or its limitations, nor does it specifically authorize a party to determine whether the proposal would be a valid charter amendment.

**Purpose:** The purpose of this amendment is to authorize the County Clerk, subject to court approval, to determine whether a proposed charter amendment is valid. It also seeks to limit a charter amendment to addressing the form or structure of county government, and not as a vehicle to adopt local legislation.

Charter Amendment.

Articles XXII and XXIV of the Kaua'i County Charter is amended to read as follows:

Note: Charter material to be repealed is bracketed. New charter material is underscored.

## ARTICLE XXII INITIATIVE AND REFERENDUM

### Section 22.03. Submission Requirement.

A. Voters seeking to propose an ordinance by initiative shall submit an initiative petition addressed to the council and containing the full text of the proposed ordinance. The initiative petition shall be filed with the clerk of the council at least ninety-six (96) hours prior to any regular council committee meeting.

B. Voters seeking referendum on an ordinance shall submit a referendum petition addressed to the council, identifying the particular ordinance and requesting that it be either repealed or referred to the voters of the county.

C. Each initiative or each referendum petition must be signed by registered voters comprising not less than [~~twenty percent (20%)~~] ten percent (10%) of the number of voters registered in the last general election. (Amended 2012)

D. If an initiative or referendum measure is to be placed on the ballot in a general election, the initiative and referendum petitions must be submitted not less than one hundred twenty (120) calendar days prior to the day scheduled for the general election in the county. (Amended 1976, 2012)

## ARTICLE XXIV CHARTER AMENDMENT

Section 24.01. [~~Initiation of Amendments.~~] Initiation and substance of amendments. Any amendment to this charter is limited in substance to amending the form or structure of county government. It is not a vehicle through which to adopt local legislation. Amendments to this charter may be initiated only in the following manner:

A. By resolution of the county council adopted after two readings on separate days and passed by a vote of five or more members of the council.

B. By petition [~~presented to the council,~~] filed with the county clerk, signed by registered voters comprising not less than [~~five percent~~] ten percent of the number of voters registered in the last general election, setting forth the proposed amendments. Such petitions shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments which may be [~~made~~] suggested by the county attorney. (Amended 2012)

Upon filing of such petition [~~with the council,~~] the county clerk shall examine it to see whether it is a valid charter amendment. If the county clerk concludes the measure is a valid charter amendment, the clerk shall then examine it to see whether it contains a sufficient number of valid signatures of registered voters.

(Amended 2012)

If the county clerk concludes the measure is not a valid charter amendment, the county clerk is required to seek a declaratory ruling. If the ruling finds the amendment valid, the clerk shall then examine it to see whether it contains a sufficient number of valid signatures of registered voters. If the ruling finds the amendment to be invalid, the clerk shall so certify and provide the reasoning for that ruling.

## 6. Proposing a Charter Amendment Relating to Article XXIV Establishing A Permanent Charter Review Commission.

**Ballot Question:** Shall the Charter Review Commission be an ongoing commission?

**Explanation:** The Charter establishes a seven-member commission, called the Charter Review Commission, to study and review the operation of the county government. The current language of the charter states that the Commission will expire on December 31, 2016. A new commission can reconvene in 10 years, with members to be appointed by the mayor and approved by the council.

**Purpose:** This amendment seeks to remove the expiration date of the Charter Review Commission and eliminates the 10-year intervals between the creation of the commissions, thereby establishing a permanent Charter Review Commission.

Charter Amendment.

Article XXIV of the Kaua'i County Charter is amended to read as follows:

Note: Charter material to be repealed is bracketed. New charter material is underscored.

### ARTICLE XXIV CHARTER AMENDMENT

Section 24.03. Charter Review. The mayor with the approval of the council shall appoint, with appropriate staffing, a charter commission composed of seven members who shall serve in accordance with Section 23.02C of this Charter to study and review the operation of the county government under this charter. ~~[for a period of ten years commencing in 2007. Thereafter, the mayor with the approval of the council shall appoint a charter commission at ten year intervals.]~~ In the event the commission deems changes are necessary or desirable, the commission may propose amendments to the existing charter or draft a new charter which shall be submitted to the county clerk. The county clerk shall provide for the submission of such amendments or new charter to the voters at any general or special election as may be determined by the commission. The commission shall publish summaries of any such amendments or new charter not less than thirty (30) days before any election at least once in a newspaper of general circulation within the county and the entire text of the amendments or new charter by electronic or online publication on the official website of the County of Kaua'i. (Amended 2006, 2014)

A. Unless a new charter is submitted to the voters, each amendment to the charter shall be voted on separately.

B. If a majority of the voters voting upon a charter amendment votes in favor of it or a new charter, if a new charter is proposed, the amendment or new charter shall become effective at the time fixed in the amendment or charter, or if no time is fixed, thirty (30) days after its adoption by the voters. Summaries of any new charter or amendment shall be published in a newspaper of general circulation within the county, and the entire text published by electronic or online publication on the official website of the County of Kaua'i not more than thirty (30) days after its adoption. (Amended 2014)

For further information on the Charter Review Commission, please go to [www.kauai.gov](http://www.kauai.gov) and click

on “Charter Review Commission” or contact the Office of Boards and Commissions at 241-4919, County Clerk Elections Division at 241-4800, or 241-4924 (tel/trs), Monday – Friday, between 7:45 a.m. and 4:30 p.m.

/s/ Allan Parachini  
Chairperson  
Charter Review Commission

/s/ Jade K. Fountain-Tanigawa  
County Clerk  
County of Kaua'i

Section 3.03. Terms. The [terms] term of office of councilmembers shall be for [two] four years beginning at twelve o'clock meridian on the first working day of December following their election. No person shall be elected to the office of councilmember for more than [four] two consecutive [two] four year terms. The terms shall be staggered to ensure that four council members are elected in one two-year election cycle and three council members in the next two-year election cycle.

In the first election after staggered terms are approved by voters, and in this election only, the four candidates who received the highest numbers of votes shall be deemed elected to full four-year terms and the three members who received to lowest numbers votes will be deemed elected to two year transitional terms.

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**Ballot question: Shall the terms of County Council members be extended from two to four years, staggered to promote institutional memory, to be phased in during the first election cycle after adoption of this amendment, when three members will serve two-year terms and four members shall serve four-year terms?**

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