

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

Approved as circulated 2/22/16

Board/Committee:	<b>CHARTER REVIEW COMMISSION</b>	Meeting Date	<b>January 25, 2016</b>
Location	Mo'ikeha Building, Meeting Room 2A/2B	Start of Meeting: 4:00 pm	End of Meeting: 7:40 pm
Present	Chair Alan Parachini; Vice Chair Ed Justus. Members: Joel Guy; Cheryl Stiglmeier; Jan TenBruggencate Also: Deputy County Attorney Philip Dureza; Boards & Commissions Office Staff: Support Clerk Barbara Davis; Administrator Jay Furfaro		
Excused	Members: Mia Ako, Patrick Stack		
Absent			

SUBJECT	DISCUSSION	ACTION
	Prior to the start of the meeting, Council Administrative Assistant Eddie Topenio gave the Oath of Office to reappointed Commission member Cheryl Stiglmeier.	
<b>Call To Order</b>		2015 Chair TenBruggencate called the meeting to order at 4:00 p.m. with 5 Commissioners present.
<b>Election</b>	<u>Election of Chair and Vice Chair for Calendar Year 2016</u>	Mr. Guy moved to nominate Allan Parachini as Chair. Ms. Stiglmeier seconded the motion. Motion carried 5:0  Ms. Stiglmeier moved to nominate Ed Justus as Vice Chair. Mr. Guy seconded the motion. Motion carried 5:0
<b>Approval of Minutes</b>	<u>Regular Open Session Minutes of November 23, 2015</u>	Mr. Parachini assumed the duties as Chair.  Mr. TenBruggencate moved to approve the minutes as circulated. Ms. Stiglmeier seconded the motion. Motion carried 5:0
<b>Executive Session</b>		Chair Parachini cited that the Board would go into Executive Session pursuant to the Hawai'i Revised Statutes for ES-001, ES-002, ES-003 and ES-004 as fully described on the posted

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		<p>agenda.</p> <p>Mr. Justus moved to go into Executive Session at 4:04 p.m. Mr. TenBruggencate seconded the motion. Motion carried 5:0</p>
<p><b>Return to Open Session</b></p>	<p><u>Ratify Commission actions taken in Executive Session for items: ES-001, ES-002, ES-003, and ES-004</u></p>	<p>The meeting resumed in Open Session at 4:22 p.m.</p> <p>Mr. TenBruggencate moved to ratify the actions taken in Executive Session. Ms. Stiglmeier seconded the motion. Motion carried 5:0</p> <p>Mr. Justus moved to waive the confidentiality of the Attorney Opinions received and as discussed in Executive Session. Mr. Guy seconded the motion. Motion carried 4:1 (nay-TenBruggencate)</p>
<p><b>Business</b></p>	<p><u>CRC 2015-02 Staff update on status of County Clerk’s Office verifying accuracy of 2014 Codified Charter for certification for continued Charter Commission’s identifying and proposing non-substantive changes to the Charter (On-going)</u></p> <p>Ms. Davis stated that the County Clerk has certified the Charter which cleans up a lot of typos. Also a sample was placed in the Commissioner’s packet showing what it would like if they were to bold the headers in the Charter versus underscoring which is frequently misunderstood as part of the Ramseyer process. The County Clerk’s office has also inserted the ‘okina as appropriate.</p> <p>Attorney Dureza recognized the hard work the Commission has put into this and was sorry there had been a mix of attorneys assigned to the</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Commission, but his position on this is a lot of the changes that were suggested falls beyond the scope of the Charter Commission. A lot of it is esthetic changes, and except for the proposal about having sex neutral pronouns and adjectives, it goes beyond what the scope is. Attorney Dureza's position is the CRC is supposed to study and review the effective operations of the County and then suggest amendments related to that. One of the proposed amendments the Commission raised is that any amendment has something to do with the form or structure of government. A lot of the esthetic changes proposed do not qualify as that. Looking at some changes that were approved they seem arbitrary. For example, it was suggested in Section 2.01 to add a comma before which but Section 3.12, subsection B, a comma was not added before which and asked what rule they were following. Looking at what was done before seems random and a "gut thing". Another example there were several commas added before "and" when there are only two items. Typically you do not add the comma unless the "and" separates 3 or more in a series like nouns, phrases, and clauses. In this example we are not following certain rules so it is problematic. Others are hard to justify making an amendment, for example, Section 9A.05, subsection B there was language that eliminated "of the State" and made "state" an adjective before the noun. Was that done consistently throughout? A lot of the changes that were approved before are problematic and Attorney Dureza said he would propose they stick with sex neutral suggestions, but even then some of the changes voted upon earlier are also problematic because sometimes you would eliminate "his" and change it into "the" but it makes the language less clear. Citing Section 3.04 A and 3.05 B this makes the language less clear and it changes the Charter in a way that the Attorney is not sure it characterizes totally non-substantive. He suggested it would be much more straightforward by changing the adjectives and the pronouns to "his/her" and "him/her". It may not be the most esthetically pleasing seeing the slash between his and her but it would be the cleanest way to do it.</p>	

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	<p>Chair Parachini pointed out that 3 members are at a disadvantage in this conversation since they were not on the Commission when all of this was done. Mr. TenBruggencate pointed out that every single one of the changes was debated by 7 citizen commissioners, which was absolutely within our authority. The Commission has the authority to rewrite the Charter top to bottom. We have the authority to recommend changes that are dramatic to the structure of the County government. We have gone through and made non-substantive changes because after 40 years of being in place the Charter has sections written by different people in different ways and by people who learned grammar differently. Not all of the changes are significant but every one represents the vote of a majority of the citizen members of this Commission. To take more than two years of work by this Commission and toss it out would be the wrong thing to do. If a comma was changed, and in retrospect two years later someone says you should not have changed that comma, we had that conversation – heated conversations about every comma. What is represented here is what 7 citizen commissioners decided upon and I am frustrated to hear that we should toss all of that out. We even had the conversation of using the he/she pronouns and tried not to do that in every situation; we used nouns instead of pronouns. This has been worked on by what has been one of the key initiatives of the dozen or so commission members who have served on this commission over the last 4 years. If there are specific examples we want to go back and revisit, fine – but tossing them out wholesale is a mistake.</p> <p>Attorney Dureza said just looking through these things he could point out problem issues. Section 3.02 (sic – meant 3.12), subsection B, a comma was added before “and signed” but grammatically that comma is not necessary because it divides only two things instead of multiple things - a series of three or more. He said he did not understand why the comma would be there unless there is some grammatical rule they can point to.</p>	

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	<p>Attorney Dureza understood and sympathized with the fact that the Commission worked really hard on this, but at the same time you do not want to make it arbitrary. Why are certain commas added here and not here, even in the same sections?</p> <p>Mr. TenBruggencate said while sitting on this Commission he argued exactly what the Attorney is arguing with respect to those commas. Having a 45-year writing career he does know a little about grammar, but they voted and the members of the Commission whose job it is to do this work voted to put those commas there and he was not sure they should casually toss those decisions out. Even when on the losing side Mr. TenBruggencate said he respects the process.</p> <p>Mr. Justus said the Commission does not have any reference to look at the sections Attorney Dureza is pointing out so they are not in a position to discuss these changes. He would be more comfortable if they had the product they worked on for longer than 4 years to look at.</p> <p>Chair Parachini said since 3 of them are new to this process and have never seen the sum total of everything that has been done it makes sense to postpone this item to the February meeting.</p> <p>Mr. Guy said he has been on the Commission for a lot of years and is still probably a stranger to the process. It has been a very lengthy process and he appreciates the good information Attorney Dureza brought out and needs to be clear so they can flesh out some of these concerns. A big concern is</p>	<p>Mr. TenBruggencate moved to defer this item to the February meeting with the hope of having the full document for review. Mr. Justus seconded the motion.</p> <p>Staff will email Commission's suggested changes to members as soon as possible.</p>

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	<p>how to present this to the public and to say you are going to change all of the non-substantive items because it is all a matter of perspective as some people could say the commas are substantive changes. Mr. Guy feels the Commission has never gotten clear on how they will pursue presenting this to the voters. He stated he sees the value in cleaning up the grammar but that is a lot of questions for one election cycle.</p> <p>Asked if the Commission had gotten to the point of addressing a ballot question, Mr. TenBruggencate said he did not believe they had gotten there yet. We still need to write the ballot question and prepare the supporting documentation that the voters would get. Mr. Guy said that has always been troubling not knowing how to present this and like it was said earlier, it was a 7 member body, but it was not always unanimous – you get the majority and that is how these things get moved forward.</p> <p>Felicia Cowden was happy with the robustness of this discussion, and it was very meaningful to hear Mr. TenBruggencate say the scope of this Commission could write the whole thing over top to bottom. If there ever is a write-over top to bottom it needs heavy public engagement.</p> <p>Ken Taylor said the Commission needs to listen to the Attorney and get a written document signing off on the changes and then move forward.</p> <p>Mr. Guy said during this whole process there has always been an Attorney sitting there. He may have a different perspective but there has been an Attorney watching us as we went.</p> <p>Chair Parachini asked Attorney Dureza if he could prepare a cover memo that lays out in writing the concerns he alluded to so the Commissioners can see that memo when we see the document. Attorney Dureza felt he could summarize some of his points for their review. Mr. Guy thought instead of</p>	

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	<p>a summary covering all 70+ pages of the Charter that Attorney Dureza could select a few pages that he sees a lot of challenges with and provide those. Attorney Dureza said in general there are common grammar errors he can talk about and then they can look through the document.</p> <p>Ms. Davis explained that everyone currently works with the 2014 Codified version of the Charter. That document was sent to the County Clerk's Office and they went through every amendment to the Charter, compared documents and made corrections on typos and omissions and the County Clerk has now certified that document as the official 2015 copy of the Charter. Ms. Davis further explained the proposed changes now being discussed are strictly from the Commission and not the Clerk's Office. Attorney Dureza pointed out that the document with the changes is ready to be sent out and he could send his comments later when he has drafted them. Asked how that document would be presented in the Commission's meeting packet, Ms. Davis did not feel meeting time would warrant going through the entire Charter and might look at submitting those recommendations in segments of 20 to 30 pages at a time as was done originally. Noting there is not the luxury of time to chop this up, the Commission needs to see the whole document at one time, which will be sent out and the Chair can then help determine how best to present this at the meetings.</p> <p>Mr. Justus called for the vote.</p>	<p>Motion to defer carried 5:0</p>
	<p><u>CRC 2015-03 Chairman's update on the status of the preamble (On-going)</u></p> <p>Mr. TenBruggencate said the last time he spoke with the County Clerk she still did not have absolute clarity about whether the preamble, which was a part of the original charter, needs to be a part of the charter and they are still waiting for an opinion from the Attorney's Office.</p>	<p>Mr. TenBruggencate moved to defer. Ms. Stiglmeier seconded the motion. Motion carried</p>

SUBJECT	DISCUSSION	ACTION
		4:1 (nay-Justus)
	<p><u>CRC 2015-04 Memorandum dated 8/27/15 soliciting input from the Mayor, County Council and Department Heads asking them to review their portions of the Charter and to report back to the Commission for consideration of any changes desired (On-going)</u></p> <p>a. <u>Request to the Mayor, the Fire Commission and Chief Westerman to discuss any concerns they may have with regard to the Proposed amendment to Article XII, Fire Department, from Fire Chief Robert Westerman</u></p> <p>Fire Chief Robert Westerman said following the Commission’s meeting in November and after conferring with the Administration, there are a couple of recommendations. Section 12.03 B. the words “emergency services” is an all-encompassing term which we wanted to define better so it was changed to <i>emergency medical services</i>. In subsection D. the question was should we reassign those duties to the Fire Commission and the Administration recommended keeping in line with what some of the commissions do in that the Chief just has to <i>execute the powers and duties as prescribed by law</i> and not necessarily as assigned by the Mayor or the Commission. Those are the changes from the last time. Chief Westerman said he also tried to make it gender neutral by using <i>the Fire Chief</i> which would also apply to a female in the future. To also bring it up to modern times, we do not do “fire control” anymore, it is <i>fire operations</i>. Mr. Justus wanted to clarify that subsection B does not establish new powers, but just reinforces existing things that are already going on to which Chief Westerman said yes. When the Charter was changed from the mayoral appointment of the Fire Chief, this did not get changed so it gives anybody who has the function by law responsibility to assign the Chief duties can still assign those duties, and it takes out the ambiguity that only the Mayor can do that. The Chief also has responsibilities by State law as well as</p>	

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	<p>Federal mandates. This does not take the Mayor out of the process because anything he can assign by law he can assign. Attorney Dureza disagreed that if you take that language out it does imply to a certain extent taking away a certain authority the Mayor has. This is especially important because this is what the Police Commission is going through now, and a move like that suggests he or she doesn't so it does have some ramification; it is not necessarily an innocuous deletion. The Chief said he worked on this with the Administration and they are in agreement but if that is the case he would like another option. If that is the case why is the Fire Commission not added because he actually works for the Fire Commission and they would assign duties also? Ms. Stiglmeier said outside of <i>as prescribed by law</i> is there other language they might add in that would encompass the Governor, Mayor, and the Fire Commission. The Chief said they tried to come up with something, but if the Attorney feels it is not strong enough then maybe they should come back with other words that make that opinion. Mr. TenBruggencate asked in the case of an emergency is it clear that the Mayor, as the head of our Emergency Management Agency, has the authority to direct both the Fire Chief and the Police Chief. Chief Westerman said he felt he does. Mr. TenBruggencate said he is ready to approve this as it stands unless it is important to other Commission members to defer this to hear more.</p> <p>Paula Morikami said the Mayor could not be at the meeting as he was required to testify before the Ways and Means Committee at the Legislature. Referencing Sections 12.01, 12.02, 12.03 and 12.04, we concurred with the amendments presented before you, however in light of what was just heard from the County Deputy Attorney it would be wise to defer this if you want to clarify subsection D. Although we concurred with the language <i>as may be prescribed by law</i> if there is issue there rather than taking action today we would ask for a deferral so the Chief at least can discuss this with the Attorney's Office. Ms. Stiglmeier absolutely agreed</p>	

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	<p>that it was imperative to have clarification.</p> <p>Ken Taylor thought the way the proposal was written was beneficial to the community at large and would make good sense to move forward with it.</p> <p>b. <u>Letter dated December 22, 2015, from Michael Dahilig, Planning Director, requesting consideration of adding Section 14.12 to the Kaua‘i County Charter creating a Zoning Board of Appeals</u></p> <p>Mike Dahilig, serving as both the Clerk of the Planning Commission and the Director of Planning for the County. Mr. Dahilig transmitted on December 22 a letter requesting (Charter) Commission entertainment of the creation of a Zoning Board of Appeals that would be proposed to the electorate as an additional commission to be created in the County of Kaua‘i to dispose of appeals that are done based off of decisions made of the planning Director pursuant to either the Charter or the Comprehensive Zoning Ordinance or the Sub-division Ordinance. The reason this request has come with the support and request of the Kaua‘i Planning Commission is the recent increase in the Department’s enforcement activities, particularly with respect to utilizing the “fine” authority that has been handed down by the County Council and approved by the Mayor. This has prompted a large influx of contested case hearings that need to be conducted pursuant to Hawai‘i Revised Statutes Section 91, which is the contested case hearing statute, which does provide an avenue for due process as required in the United States Constitution to dispose of situations that may affect the rights of an individual. These hearings are meant to be conducted in a very judicious but slow manner. The Planning Commission has made many comments over time to the Administration as well as to the</p>	<p>Ms. Stiglmeier moved to defer the proposed amendment on the Fire Department to the February meeting. Mr. TenBruggencate seconded the motion. Motion carried 5:0</p>

SUBJECT	DISCUSSION	ACTION
	<p>Department that the amount of cases that are coming through for contested case hearing is becoming burdensome. Currently the County has spent over a quarter of a million dollars thus far in Hearings Officer fees to assist the Planning Commission in actually disposing of these enforcement activities that have been handed down by the Planning Department. The proposal is also meant to address what we see as a cost measure with respect to disposing of the due process elements required by law. We have looked at both Maui and Hawai'i counties as best practice templates for the County to look at how to more efficiently and more directly dispose of these Chapter 91 hearings. The proposed language on page 2 essentially mirrors the language that is contained within both the Maui and Hawai'i counties' Charters with one exception. Both those counties have a combined Zoning and Building Board of Appeals whereas in our situation we are looking strictly at it as just a Zoning Board of Appeals. There is an existing Board of Appeals within the County of Kaua'i, but it is meant to handle the building division elements and this would strictly be to handle the zoning elements. Also in the proposed language of the amendment the Planning Department would be responsible for the administrative duties related to having that Commission function. Because these hearings tend to take months, if not years, the amount of time we are asking the members of the public to serve on the zoning board may warrant some remuneration, which is why there is mention of a reasonable stipend that would be set either by law or by the per diem regulations of the Federal government. We are attempting to handle both the financial issues that relate to conducting these Chapter 91 hearings as well as look at a way to still maintain public involvement in the disposition of these contested case hearings.</p> <p>Ms. Stiglmeier asked how busy was the Building Board of Appeals and might they be able to handle taking on this task. Mr. Dahilig said the Building Board of Appeals only meets on occasion and their membership is generally populated with experts in the area that relate to architects,</p>	

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	<p>engineers, etc., because there are sometimes deviations from the various codes that need to be handled. Whether their mindset or expertise is geared towards zoning issues, which are more form, character and use, appeals are not usually their cup of tea. The language as proposed does not look at zoning knowledge as a prerequisite to serving on the board. We were looking at models that would allow our Department to more purposely support the administrative duties related to this. Filing, servicing and all the different things involved would require a much more heightened amount of support from the agencies that do supervise the Building Board of Appeals.</p> <p>Mr. Guy said it seems like a very valid proposal. In the recommendation section it says board members shall be representatives of the community and wherever possible persons with background and expertise in broad areas of planning and construction and he asked Mr. Dahilig to expand on that. Mr. Dahilig said the Planning Commission, by Ordinance, is required to have a diversity of candidates that pass muster at the Council level. There are 2 labor, 2 business, 2 environmental, and 1 at-large members that make up the Commission. As to what those areas of expertise or background entail the law does not go further than those words – environmental, business, and labor. Whether a change to the proviso that talks about the background were to be adjusted or broadened by the Commission, Mr. Dahilig does not see a problem as the Planning Commission is generally reflective of the population at large on the island.</p> <p>Mr. TenBruggencate thanked Mr. Dahilig for bringing this forward as the Planning Commission needs a break. Of concern, is Mr. Dahilig aware of any other situation in what is otherwise a volunteer board or commission in which they are authorized to receive a stipend because that would break new ground? Mr. Dahilig said at the State level there is the Public Utilities Commission who are full time employees of the State. Mr. TenBruggencate</p>	

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	<p>said he was referencing County boards and commissions. Mr. Dahilig said he is not familiar where within the County of Kaua‘i that is the case. Mr. TenBruggencate said if the stipend was not mentioned in the Charter, would it still be possible for the County Council by Ordinance in the case of a commission like this that had extensive hourly requirements, could the Council then do it? Mr. Dahilig said that is a question best left to the County Attorney’s Office. In proposing the potential amendment it is in recognition that in these hearings they are sitting like judges and given the case load now – right now there are 18 contested case hearings that are pending before the Planning Commission – and the amount of time that has been accrued with the Hearings Officer from an hourly basis is well beyond what we typically see the Planning Commission putting in as their time. How that time is recognized and how it is valued by the County, we would be asking this Board of Appeals to undertake a very heavy caseload that would take more than what the normal volunteer board would otherwise entertain. Mr. TenBruggencate said his concern is we have not in the past in this County set up a system whereby we start paying our volunteers, and if we do that we do it on the basis of a robust public discussion. Mr. TenBruggencate supports the Board, he does not support the stipend and asked the County Attorney if that is something that needs to be in the Charter, or if it is an appropriate form of compensation whether the Council could handle that. Attorney Dureza said it was something he would have to look into if the Commission requests it.</p> <p>Mr. Justus asked Mr. Dahilig if he had floated this idea to the Cost Control Commission to get their input or how did he determine this would be a better financial way to go. Mr. Dahilig said they based this on discussions they have had with Will Spence, the Director on Maui, as well as the fact that Mr. Dahilig signs the invoices for the Hearings Officer on a monthly basis, so it is not only very time consuming but cost consuming. Mr. Dahilig added that what they are already supporting in-house with the</p>	

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	<p>Planning Commission is the administrative backup to conduct these hearings. That support is already folded into the business process of our Department so it is not as if we would be adding to the cost of supporting this type of function, but rather trying to separate the work of the volunteers. Mr. Justus asked if there are any other commissions that have their own administration. Mr. Dahilig said he would have to look where he drew that language from but thought it was similar to the Planning Commission language although he could be wrong. Mr. Justus said if the Zoning Board of Appeals is under the administration of the Planning Department, does the Boards and Commissions Office still oversee that or is it separate? Mr. Dahilig said if they were to push what the Planning Department does wholly over to the Boards and Commissions Office they would essentially have to move the whole Planning group over to the Boards and Commissions Office. A lot of that relates to the technical expertise required to produce the packages that the Commission approves on a bi-weekly basis. The Boards and Commissions Office handles the transcription of the minutes for the Planning Commission as well as staffs and does the transcription of the minutes for the executive sessions. In terms of the actual work product that comes before the Commission the Department handles those packages because it relates directly to the workload we have to produce under law. This would be an extension of what we are prescribed under law to undertake with respect to enforcement so we see this as a natural extension, and if implemented he would mirror the agreements they have with the Boards and Commissions Office to handle the Board of Appeals in a similar fashion as the Planning Commission. Mr. Justus asked if the County Attorney had reviewed this proposal before presenting it to the Charter Commission. Mr. Dahilig said this was a general idea that was set up based on discussions with the Planning Commission.</p> <p>Chair Parachini said it is a well thought out proposal and he has the same</p>	

SUBJECT	DISCUSSION	ACTION
	<p>concern about the compensation issue and a couple of other questions somewhat related to that. When you hire Hearings Officers what background do they have, how are they selected, is there a panel they are chosen from? Mr. Dahilig said hiring a Hearings Officer is not considered exempt procurement pursuant to HRS 103 D so we have to go out for solicitation of professional services. HRS 91 does not prescribe that a Hearings Officer has to be a licensed member of the bar; there are situations across the State where other Hearings Officers are appendaged to other agencies who do not have a bar license but yet still serve as Hearings Officers. It is not a prerequisite but the response we generally see from the solicitation notices that go out are predominately from law firms or lawyers. Essentially what we are paying for is a legal service, but it is not a prerequisite that a Hearings Officer has to be a licensed member of the bar or a trained lawyer to conduct this activity. Chair Parachini said if this alteration was made Mr. Dahilig would be relying on the members of this Board of Appeals to conduct the hearings; work that is now outsourced to people with Hearings Officer backgrounds. Mr. Dahilig replied yes. Asked if he thought as a practical matter the people who would be appointed to this with the diversity described in the proposal would such people have the Hearings Officer skills necessary to function in the capacity they are being tasked with. Mr. Dahilig said in crafting the amendment and looking at what has been implemented with our peer counties he would consider the organic authority of this particular board coming from the Planning Commission. If there was no Hearings Officer...we partially do the Hearings Officer also as a means of efficiency in trying to provide timely disposition of cases from the Planning Commission, but in effect the seven members of the Planning Commission already serve as laymen and women judges to dispose of these cases. If we were to create a higher standard of knowledge it would in effect be a more restrictive group of people that would be eligible to serve on this board as compared with the people currently charged with that duty. If that is the desire of this Commission,</p>	

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	<p>Mr. Dahilig said he would not see any concern with trying to sharpen the mental capacity of the members of this particular board to help dispose of these cases.</p> <p>Mr. TenBruggencate wondered if there was another alternative that hasn't been taken advantage of. There are qualified arbitrators and mediators in our community and he asked if they had been used to do these sorts of things because clearly the Planning Department is hiring very expensive professional licensed attorneys to do work that would otherwise be done by the citizen members of the Planning Commission. Is there something in-between that might solve some of the same problems? Mr. Dahilig said the Planning Commission Rules currently do provide for alternative disposition of contested case hearings. We have had situations where face-to-face mediation has led to the termination of an appeal and a settlement of the matter. Given the amount of case law of recent, and the cases that come off from the Supreme Court, have a bearing now on how we handle Chapter 91 hearings. Having mediation available, we can see that as an option and have utilized that option, but the fingerprint of the cases that have come through the Planning Commission thus far have been filed by many Honolulu attorneys, so mediation would not be a whole alternative to relieving the Planning Commission of a heavy case load. Mr. Dahilig suggested statistically the Planning Commission did have at one point a backlog of more than a few dozen of these cases which has been whittled down to 18, and that has also been as a deliberate effort by the Planning Department to push through cases by settling face-to-face. Now that we have an enforcement chief we are able to more quickly agree to certain terms of settlement that we can execute administratively without having to burden the Planning Commission. Mr. TenBruggencate said the Planning Commission, under the existing language of the Charter, would still have this authority, so would this Board of Appeals be for overflow cases or does the language of this actually remove that power from the Planning</p>	

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	<p>Commission. Mr. Dahilig said this particular authority more so comes out of a mix of Ordinance and case law, not organic Charter requirements. This is a duty that has evolved over time as the Supreme Court has decided to expand the breadth of what constitutes a contested case hearing and what constitutes quasi-judicial process. What this would handle specifically is only those situations where an appeal of the Director comes in. What would still be retained by the Planning Commission are contested case hearings related to the approval of permits. The language in Chapter 14 does not make any mention of contested case hearings specifically. The only mention of an appeal is what is being proposed as an amended 13 which is any decision by the Planning Commission then gets shot over to the circuit court, and that is in line with what Chapter 91 says. It is something that has grown over time and was not pre-prescribed by the adoption of the Charter in the '70s. Mr. TenBruggencate said if this Board is going to do work that the Planning Commission is doing because the Planning Commission is so horrendously overworked maybe the Planning Commission should get a stipend too. Mr. TenBruggencate said he was not suggesting that - it is his argument for providing for stipends in the County Charter. Mr. Dahilig said they were cognizant this policy issue might come up which is why we used the word "may" rather than "shall" to have it as permissive authority, and if the Council views this as a policy that is not in line with their budgetary concerns they can by budget ordinance not fund the stipends.</p> <p>Chair Parachini said Mr. Dahilig referenced a figure of about \$250,000 that is now being spent and asked what makes him confident that cost would be reduced if they were paying stipends to members of the Board of Appeals to do what they are now hiring Hearings Officers to do. Mr. Dahilig said he looks at it from a standpoint of what the hourly rates are for the Hearings Officer which can range from between \$250 to \$350 an hour. What the stipend would entail is in line with per diem rates set by the Federal</p>	

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	<p>government. Those tend to range at most for a 24-hour period \$130 per day. All the supportive elements like the copying, the posting of the notices, the minutes being taken are already administratively absorbed by County staff. Chair Parachini said this is a very important and substantial step that the Department is proposing.</p> <p>Mr. Justus said since they are talking about the importance of the background of someone serving as a Hearings Officer as compared to volunteers what about requiring that one of the 5 members have a background as a Hearings Officer – would that be something useful or unnecessary. Mr. Dahilig said the template of having seven laymen and women make decisions regarding zoning rather than a group of technocrats has some wisdom behind it. It can be messy and ugly at times, but the harmony that is made by having neighbors make decisions versus a bunch of hired technocrats make those decisions as a benefit. Mr. Dahilig said he did not see an issue if they want to refine the expertise and the background knowledge this panel would have, but looking at the Planning Commission he would suggest keeping where the organic authority of the zoning approval process is currently coming from and that is currently a board of 7 laymen and women.</p> <p>Mr. TenBruggencate asked if they remove the reference to the stipend and move forward with the remaining language would that create a fatal flaw. Mr. Dahilig did not believe it was an issue.</p> <p>Mr. Guy asked if there was any wisdom in amending §14.12 to strengthen the requirements to mirror the Planning Commission’s recommendation for</p>	<p>Mr. TenBruggencate moved to approve the language subject to the development of the ballot language and associated documents with the exception of the last sentence in the paragraph that follows Section 14.12, subsection 3, which deletes the statement that board members would receive a stipend. Mr. Justus seconded the motion.</p>

SUBJECT	DISCUSSION	ACTION
	<p>commissioners.</p> <p>Mr. TenBruggencate said his concern is that the County has significant difficulty in finding people willing to serve on the panels and the more you limit the kind of people who can serve the more difficult it might be to find people to plug into those pukas. Mr. TenBruggencate was wondering whether they even need to include the language in the proposal, although it does make sense.</p> <p>Mr. Guy said if they are going to have language in there, he would add (the requirements) because he thought there was value in having it so there is some kind of guideline, or remove the two recommendations of a planning and a construction background.</p> <p>Upon question of what the requirements are for Planning Commissioners, Mr. TenBruggencate said it requires 2 members who represent unions, 2 members who represent the environment, 2 who represent business and 1 at-large.</p> <p>Chair Parachini made note that the proposed amendment is for a 5 person board so the requirements are off based on the Planning Commission requirements.</p>	<p>Mr. Guy moved to amend the motion to mirror the language of the recommendation requirements for Planning Commissioners.</p> <p>Mr. Guy restated his amendment to add to Section 14.12 that board members shall be representative of the community, with at least 1 member who will have knowledge and awareness of environmental concerns by way of the person's education, training, occupation, or experience; at least 1 member shall have knowledge and awareness of business concerns by way of the person's education, training, occupation, or experience; and at least 1 member shall have knowledge and awareness of organized labor concerns by way of the person's education, training, occupation, or experience. Mr. Justus seconded the motion for discussion.</p>

SUBJECT	DISCUSSION	ACTION
	<p>Mr. Justus said when members are being selected for the Planning Commission how much latitude is there for defining what somebody who has a background in environment means. Mr. Dahilig said because he is directly appointed by the Planning Commission he tries to stay out of the Administration's review and selection as much as possible until a nominee is proposed then we try to help the nominee prepare for Council. The check and balance that comes in whether or not they meet these criteria generally is done by whether or not the Council concurs with the nomination. You will see Council's questions steer towards what is your background in labor, what is your background in environmental concerns, how can you be somebody that brings environmental concerns or environmental perspective to the commission. Mr. Dahilig said he has seen situations where environmental has been interpreted as broad as to have people who raise cultural concerns on behalf of the native Hawaiian community. That has in the past passed muster with the Council to say this is somebody who has the training/expertise and background in environmental concerns. That is the only check and balance; it is not further prescribed by ordinance as to the standard of expertise like you would with the Planning Director's position.</p> <p>Mr. TenBruggencate spoke against the (amended) motion as he was not sure the Planning Commission language, although approved by the voters, nor the proposed language adequately represents our community. Limiting 3 of those seats to a fairly narrow job requirements is inappropriate and he will be voting against the motion.</p> <p>Chair Parachini asked Mr. TenBruggencate if they were to retain the language currently in the proposal which prescribes that the members of the</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Zoning Board of Appeals would wherever possible be persons with background or expertise in broad areas of planning and construction shall be given preference.</p> <p>Mr. TenBruggencate said he did not like that language either however, that language is not mandatory and says wherever possible. If they have 2 at-large and a union leader and an environmentalist the only people who qualify are businessmen. There are teachers, farmers, film makers and all sorts of other people in the community who now can't serve on that panel. That is not an appropriate thing to put in the Charter.</p> <p>Mr. Guy said he would keep "wherever possible" in the proposal. Mr. TenBruggencate said he would withdraw his objection if they keep the words "wherever possible".</p> <p>Felicia Cowden said she was testifying on behalf of Bridget Hammerquist who had to leave and her background is in law and health. She points out that a contested case hearing is an appeal process. If they go to a Zoning Appeal Board under the Planning Department there won't be the independent review. Rather the Zoning Appeal Board would be inclined to be loyal to the Planning Commission when an administrative Hearings Officer would be an independent, legally trained review with expertise on zoning laws, ordinances, etc. This is a Zoning Appeal Board not likely to have the same legal background. At a minimum Mr. Dahilig's proposal should go to the County Council for comment on its compliance with contested case hearing requirements.</p> <p>Paula Morikami, speaking on behalf of herself, said if they are anticipating making this change and proposing this amendment, they need to also at some point consider changing the Board of Appeals that is in the Charter (sic – Code of Ordinance 112.1) to Building Board of Appeals or</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Construction Board of Appeals so it is very clear that there is a Zoning Board of Appeals and then a Building Board of Appeals.</p> <p>Ken Taylor thanked Mr. Dahilig for bringing this forward because of the problems that have been piling up at the Planning Department with the lack of being able to deal with this issue. Mr. Taylor also agreed with the recommendation to take out the stipend part.</p> <p>Mr. Guy asked if the Planning Director could speak to having an independent person making decisions on the contested cases versus a commission that is appointed by the Mayor.</p> <p>Mr. Dahilig said he understood where Ms. Hammerquist was coming from. The Hearings Officer is not the final decision maker when it comes to whatever recommendation he or she renders. The Hearings Officer simply helps facilitate the process, takes care of motions, takes care of filing deadlines, and creates draft decisions and order. The dossier comes back to the Planning Commission where final arguments are then done in a public forum where both parties can argue for or against the Hearings Officer's recommendation and the final vote by the Planning Commission is what is looked as the decision of the body. The Hearings Officer has no authority to actually render a final decision and order; it goes back to the Planning Commission as an efficient means of trying to push a contested case hearing through.</p> <p>Mr. Justus asked if the Planning Commission makes the final call and there is a Zoning Board of Appeals do they have the ability to make the final call or does it still go back to the Planning Commission?</p> <p>Mr. Dahilig said they (Zoning Board of Appeals) would have the ability to make the final call. One more point of clarification, when it comes to</p>	

SUBJECT	DISCUSSION	ACTION
	<p>situations where a contested case hearing is initiated the County Attorney’s Office splits so there is one person representing the Commission, one person representing the Department, and the Planning Department Office splits so there is one secretary assigned to the Department and one secretary assigned to the Planning Commission. As to who makes the calls on behalf of the Planning Department there is one senior planner assigned to the Planning Commission and Mr. Dahilig screens himself off if there is a recommendation from the Department, so that natural firewall automatically happens by business practice and procedure to ensure there is no undue influence put on the Planning Commission whenever a decision is made.</p> <p>Chair Parachini called for the vote on the amendment which changes the wording in the second sentence (§14.12) to read as follows: Board membership shall be representative of the community, and, wherever possible, at least one member shall have knowledge and awareness of environmental concerns by way of the person’s education, training, occupation or experience; at least 1 member shall have knowledge and awareness of business concerns by way of the person's education, training, occupation, or experience; and at least 1 member shall have knowledge and awareness of organized labor concerns by way of the person's education, training, occupation, or experience. That paragraph would resume with the existing sentence that begins with “in accordance with”.</p> <p>Mr. Guy asked if “shall” should be changed to “should”. Mr. TenBruggencate suggested he defer the question to the County Attorney.</p> <p>Attorney Dureza thought “should” was better.</p> <p>Chair Parachini called for the vote on the main motion as amended and</p>	<p>Roll Call Vote on the amendment as corrected and read by Chair Parachini: Aye-Guy; Aye-Justus; Aye-Stiglmeier; Nay-TenBruggencate; Aye-Parachini. Motion carried 4:1</p> <p>Roll Call Vote on the main motion as amended: Aye-Guy; Aye-Justus; Aye-Stiglmeier; Aye-TenBruggencate; Aye-Parachini. Motion carried</p>

SUBJECT	DISCUSSION	ACTION
	<p>which strikes the sentence <i>Board members may also receive a reasonable stipend for their service when actually conducting hearings pursuant to Chapter 91, Hawai‘i Revised Statutes.</i></p> <p>c. <u>Proposed amendment to Section 20.02 E from the Board of Ethics to add clarity that a county officer or employee is prohibited from using his or her official position to inflict an unwarranted detriment on anyone</u></p> <p>Asked where this proposal came from, Ms. Davis said it is from the Board of Ethics via their Attorney who suggested adding clarity to the Charter in which it says you can’t receive a benefit for yourself but it doesn’t say you can’t harm someone else.</p> <p>Mr. TenBruggencate thought it was a good idea but he was not sure it rises to the standard of necessary or desirable change to the Charter that is mandated to bring this forward. Cognizant there may be up to 20 Charter amendments, he was not sure this was key enough but would defer to the opinion of the other Commissioners.</p> <p>Mr. Justus said he liked it but he was concerned that it was a little vague. How do you quantify “undue detriment”; there is no standard to measure it.</p> <p>Attorney Dureza said he had the same issue as it was a vague phrase.</p> <p>Chair Parachini asked if it would be appropriate to defer this and invite the Board of Ethics to enlighten this Commission on why they think this is necessary.</p>	<p>5:0</p> <p>Ms. Stiglmeier moved to defer this item and request clarification on the language the Ethics Board. Mr. Justus seconded the motion.</p>

SUBJECT	DISCUSSION	ACTION
	<p>Mr. Justus said if they could define this that would be great and it could be by letter.</p> <p>A point of clarification, Mr. Furfaro said the Board of Ethics does not meet until February 19 and asked for clarification on who they would like to hear from - their Attorney or the Chair.</p> <p>d. <u>Proposed amendment to Article XVIII, Civil Defense Agency, aligning this Article to the Hawai'i Revised Statutes, Article 127A-5, in changing from Civil Defense Agency to Emergency Management Agency (approved for legal review 10/26/15)</u></p> <p>Ms. Davis explained the (former) Chair and the Attorney did submit a ballot question which was included in the handout.</p> <p>A five minute recess was called at 6:13 p.m. Meeting was called back to order at 6:19 p.m.</p> <p>Mr. TenBruggencate said 2015-04 d. is a name change for the Civil Defense Agency under Homeland Security law and State law which have converted the Civil Defense Agencies into Emergency Management Agencies and brings them into compliance with State and Federal policies.</p>	<p>Ms. Stiglmeier clarified from the Chairperson. Motion failed 3:2 (nay-Guy; TenBruggencate)</p> <p>Mr. TenBruggencate moved to receive the item for the record. Ms. Stiglmeier seconded the motion. Motion carried 4:1 (nay-Justus)</p> <p>Mr. TenBruggencate moved to send this to final ballot. Mr. Justus seconded the motion. Motion carried 5:0</p>
	<p><u>CRC 2015-07 Request from a member of the public via Chair TenBruggencate to again consider a proposed amendment to allow county board and commission members to appear before other county boards,</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>commissions, or agencies (Section 20.02 D) (approved for legal review 10/26/15)</u></p> <p>Mr. TenBruggencate said this addresses an issue discussed earlier whereby under the current language we could not get driver’s licenses because as boards and commission members it technically says you can’t represent yourself or anybody else in front of any County agency. This only limit that you could not represent yourself or anyone else before the agency that you sit on which would be a clear violation.</p> <p>Mr. Justus said since confidentiality has been waived for the Executive Session one of the things discussed was the legal review of this very amendment. There was a suggestion from the Attorney’s Office of changing the ballot question. Do we need to approve the ballot question or just approve the language and then tweak the ballot question as we go?</p> <p>Attorney Dureza thought it was a procedural decision the Commission needed to make, but if everyone was okay with the ballot question the Attorney suggested he did not see why it could not be addressed now.</p> <p>Mr. Justus said he was okay in accepting the suggested ballot question.</p> <p>As a condition, Mr. Justus requested to add a comma a comma in 20.02 D following “commissions” towards the end of the statement.</p> <p>Mr. Furfaro pointed out that for the future there are no seconds to be made based on a conditional negotiation.</p>	<p>Mr. TenBruggencate moved to approve the language as drafted by Staff. Mr. Justus seconded the motion for discussion.</p> <p>Mr. TenBruggencate amended his motion to include adopting the ballot language proposed by Attorney Dureza. Mr. Justus seconded the motion.</p>

SUBJECT	DISCUSSION	ACTION
	<p>Ken Taylor was adamantly opposed to the discussion. There are enough people in the community who can take boards and commissions positions without having to worry about this situation. The most important thing for the community is ethical, moral activities amongst all people. When you loosen up the verbiage it opens the door for more and more problems. This Commission needs to address these issues as it pertains to the majority of the people in the community, not a handful.</p> <p>Mr. TenBruggencate suggested to Mr. Taylor that when this language came into the Charter virtually every attorney.....this County used to get free legal advice from attorneys throughout our community. They served on boards and commissions; virtually every one of those attorneys dropped off of boards and commissions because they could no longer represent their clients - the people of this community. Mr. TenBruggencate said they could disagree but he did not think that was a good thing.</p>	<p>Roll Call Vote: Nay-Guy; Aye-Justus; Aye-Stiglmeier; Aye-TenBruggencate; Nay-Parachini Motion failed 3:2</p>



SUBJECT	DISCUSSION	ACTION
	<p>Mr. TenBruggencate said he had a towering list of oppositions to this. Consistent with his previous vote he does not believe they should reach down into the list of candidates who failed to be elected to seat them into the County Council. We have a system, although it has worked spottily in the past, it does work and a candidate who has lost an election may have left the island, may have stopped paying attention to County issues, and in any case was a person who the voters specifically did not select. With respect to having the Council Chair rather than the Mayor select in the event a councilmember cannot be selected by the Council that leads to putting additional power in the hands of the Council Chair who might argue against reaching a conclusion among the councilmembers so they can make the decision ultimately themselves. Mr. TenBruggencate also was not sure they should start tossing district language into a Charter that currently does not have districts and he will be voting against this proposal.</p> <p>Mr. Justus believed the last time this item came up that Mr. TenBruggencate would have supported it had it just selected the 8th candidate as opposed to the 8<sup>th</sup> and 9<sup>th</sup> and asked if he would support this if the language was changed just to select the 8<sup>th</sup> candidate.</p> <p>Mr. TenBruggencate said this has 3 parts and another of his objections is adding 3 ballot questions to what is already going to confront the voters with a very long list of ballot questions. He stated he did not approve of the other 2 parts either and cannot support this as it is proposed now.</p> <p>Ms. Stiglmeier said one of the Commission's job is to make sure they uphold the County Charter and is tenuous that they would be changing it with this language, so she would agree with Commissioner TenBruggencate. Chair Parachini also agreed.</p>	<p>stated in order to answer the concerns of the County Attorney. Mr. Guy seconded the motion.</p>

SUBJECT	DISCUSSION	ACTION
	<p>Mr. Guy said the challenge with the current system is it does have the majority of the Council deciding who this person is. That can create a challenge for the Council and create a challenge for the County. If you look at the separation between 7<sup>th</sup> and 8<sup>th</sup> there was a difference of around 75 votes and he felt that was who the voters voted for. You let the voters choose. Rather than add this challenge within the current system where we have seen councilmembers who are appointed in situations that are confusing to the public and where there have been a lot of challenges in the public's perception of how that goes down. Having the next guy in line seems like it would be the most (sic) way to give it back to the people's decision.</p> <p>Mr. TenBruggencate said the current system has gone both ways in which the Council selected the 8th person and then the next time they did not choose to do it that way. In the situation where instead of 75 or 100 votes it is like a 5,000 vote margin between number 7 and number 8 – do you still reach down and grab someone who was 5,000 votes behind?</p> <p>Mr. Guy said he could see the wisdom in that, but at the end of the day it should be the people's decision.</p> <p>Mr. Justus said he will support the amendment mainly for one reason in that this selection process eliminates the Council deciding and just picks the 8th member effectively, which removes any political maneuvering that can go on. As far as the issue of including language on districts, it does not have to be on this amendment. It can be rolled into the districting proposal that may be on the ballot.</p> <p>Felicia Cowden appreciated what Mr. Guy was saying in giving the choice to the people. If it was up to her she would said no. Ms. Cowden said she</p>	

SUBJECT	DISCUSSION	ACTION
	<p>was more in line with Mr. TenBruggencate and certainly Carl Imparato because a lot can happen within a year and a half. There is so much complexity in what is happening on the Council that if you pick somebody who lost interest as soon as they lost the position it could be problematic.</p> <p>Ken Taylor agreed with Mr. TenBruggencate. When this opening comes anyone can apply for the position and the Council has the right to choose number 8 or somebody else. It has worked fine the way it is and he sees absolutely no reason and did not think there was a political undertone to this process. It works well, has served us well, and should be left alone.</p>	<p>Roll Call Vote: Aye-Guy; Aye-Justus; Nay-Stiglmeier; Nay-TenBruggencate; Nay-Parachini          Motion failed 2:3</p>
<p>CRC 2015-13</p>	<p><u>Report from the Special Committee on County Districting to the Charter Review Commission, pursuant to HRS §92-2.5, on their methodology, findings and recommendations for discussion and possible decision-making by the Commission as a whole at its February 22, 2016 meeting.</u></p> <p>Chair Parachini explained that he was the Chair of the Special Committee and unfortunately the other members, Commissioners Stack and Ako, are excused today. There has been precious little disagreement among them through the process and he is confident he speaks for all three.</p> <p>In October the Special Committee was charged with devising a proposal reflecting a vote taken previously by this Commission to offer a districting plan for County Council. Initially we felt we were not going to be able to get to a point where we could recommend anything specific. We were sent</p>	

SUBJECT	DISCUSSION	ACTION
	<p>back to our task in November and held a number of meetings and one of the most enlightening things about this was to review at least 3 reports of previous committees charged with the same thing all of which produced proposals that failed: 3 districts, 4 at-large failed twice, 5 districts, 2 at-large failed once. We first wondered how adequate was the process of determining what the community was interested in, if anything, because we didn't start with the assumption that we were going to propose a districting scheme come hell or high water. The common methodology that all 3 previous attempts had was well structured reliance on community meetings generally 3 of them in each cycle. We were fortunate that Commissioner Stack was a veteran of at least 2 of those previous committees. Hearing the view on something of the order of 90 residents each time this was done. In view of the fact that the proposals failed it was our view that the community's mood was not sufficiently or accurately gauged. Casting about for alternatives we hit upon getting into the polling business. Fortunately with the existence today of online polling software packages, many use SurveyMonkey - exactly the software package we decided to use. The County's IT people agreed to take the poll for us. We felt it important to keep it short, brief and easy so that we would not duly impose on people and ask them to make very fine judgements. We simply wanted them to tell us if they wanted to have a districting system at all and if so what it should look like. We started accepting responses on December 4<sup>th</sup> and the poll remained on the SurveyMonkey website but accessed through the Kaua'i.gov website. We hoped we would get at least 250 responses and ended up with almost 500, which if you look at margins of error gives us a sample size that in statistical terms should be fairly reliable. On line polling is a self-selective process more than a random digital classical polling. When we tallied the results we found the community had spoken pretty unequivocally. We were at one point contemplating doing a number of different sorts of this data, one of which would have been to look at the differences in response to people who were registered or eligible to register</p>	

SUBJECT	DISCUSSION	ACTION
	<p>to vote and people who weren't because we were concerned that absentee homeowners or just occasional voters would participate in the poll and would create a potentially deceiving picture of what the people of the County thought. Only 15 people who did not say they are registered or eligible to register to vote in Kaua'i County participated in the poll. Chair Parachini thought they ended up with a pretty clean and pure (inaudible) and the largest category of response was the 29.4% (136 respondents) who wanted no change; they wanted to stick with the 7 member at-large system that we have. 29.4% in favor of no change however, means that slightly more than 70% are in favor of a districting election system. When asked what it should be that falls out pretty quickly – 3 districts and 4 at-large and 4 districts and 3 at-large attracted very little support. 7 districts and 5 districts with 2 at-large received approximately the same number of votes with the 5/2 slightly ahead. Within the poll's margin of error no change, 7 districts, and 5/2 are probably a dead heat. A concern about 7 districts put us in the position of having to imagine what might happen if the County Council's current effort to identify a possible proposal for a county manager form of government in which it is likely the office of the Mayor would become that of the presiding office of the County Council. We could not to our satisfaction convince ourselves if that were to be put on the ballot by the Council and it were to pass and we had a 7 member Council whose presiding officer is identified in a way a Mayor is identified how could that person be the representative of only 1 of 7 districts. We could not come up with a satisfactory answer for that. Plus 5 districts and 2 at-large pulled slightly better, 4 votes more than 7 districts. We felt we had to choose one and we are offering two options. The first is to do nothing and leave it the way it is. The other option would be to put an amendment on the ballot calling for 5 districts with 2 at-large in which only people who live in the district would be able to vote for the district councilmembers with the 2 at-large elected county-wide. From the polling data the feeling of the public is overwhelming that people should only be able to vote for the district</p>	

SUBJECT	DISCUSSION	ACTION
	<p>member who represents them. That puts us at odds with Hawai'i and Maui Counties. An even more overwhelming result was that the candidate must be required to live in the district. 90% of the people want that provision. We are coming to you with an amendment that would create a system of 5 districts and 2 at-large in which for the district offices you would have to live in the district to be able to vote for that councilmember and the councilmember would have to live in the district he or she represents. One of the fruits of the past efforts there was already fairly well developed amendment language that we could recycle and modify to reflect 5 districts and 2 at-large and is the language presented in this specific proposal.</p> <p>Ken Taylor is not in favor of this proposal – he could stomach 3 districts and 4 at-large. He has lived under this process in the past and one of the problems you get into is each councilperson representing a district is being pressured by his people to get something done in his district. He only has one vote so he has to horse-trade with the others in order to get what he wants and he has to promise them that he will give them what they want. While it may sound good it is not the best for the overall community and therein lies the problem. It also takes away his democratic process by allowing him only to vote for 3 people on a 7 person board. He would accept 5, a super majority, but not 3. Mr. Taylor's recommendation would be to leave things the way they are.</p> <p>Felicia Cowden liked that there was a question like this on the ballot because it tends to be very "Lihu'e centric". In terms of the horse trading, we get all that horse trading at the State level and we are pretty used to that. There is a little bit of truth in that. Her personal inclination would have 3 districts, 4 at-large just for the simplicity. When you look at the numbers there seems to be a much bigger weight – 220 votes versus 107 votes – for having more districts. The nice thing about the 5 is it is closer to the Moku system. Ms. Cowden likes it that a person can vote for the majority but</p>	

SUBJECT	DISCUSSION	ACTION
	<p>does applaud that this effort has been made. It is clear the general population would like something different. A big worry with the 5 is it would be a substantial change the first time this goes around and it would probably replace most of everybody on the Council.</p> <p>Mr. Guy want to clarify something he heard which was not part of the report. Mr. Guy thought the first question on the survey was “are you interested in districts or no” to which Chair Parachini said no. They looked at the proportion of who wanted no change and the total number of people who wanted some kind of districting.</p> <p>Mr. Justus asked why they formulated question 3. Chair Parachini said for a variety of reasons. One is the two counties they looked at, Hawai‘i and Maui, require district residency and seems a natural of how can you represent people among whom you do not live. Chair Parachini said they did not pay a lot of attention to Honolulu County because the population size and everything about it is so vastly different from the other 3 counties and it wasn’t clear there was much we could learn that is germane to Kaua‘i County.</p> <p>Mr. Furfaro clarified that with the end of the Special Committee their recommendation to the Commission was the 5 district 2 at-large proposal.</p>	<p>Mr. TenBruggencate moved to defer Districting to the next meeting when they are able to discuss and make decisions.</p> <p>Mr. Justus seconded the motion. Motion carried 5:0</p>
<p>CRC 2016-01</p>	<p><u>Proposed amendment from Commissioner Parachini to Section 3.03 extending Councilmembers terms from two to four years in the event Council elections by district moves forward</u></p> <p>Chair Parachini said he was aware that shifting the Council to 4 year terms has been on the ballot before and lost multiple times. The reason to bring this up again is if we change to a district system and councilmembers that represent specific districts, getting a district councilmember to make a 4 year</p>	

SUBJECT	DISCUSSION	ACTION
	<p>commitment to a particular district expands the potential talent pool of people who would be interested in doing that. The other generic concern is the current system has the same limitation that the State and U.S. House of Representatives have in that they are always engaged in a re-election campaign. Changing to 4 year terms makes a great deal of sense particularly and expressly because it would (inaudible) an opportunity to stagger those terms so in one election cycle 3 of them would be running and the next election cycle 4 of them would be running. There would be a consistency of awareness of what the Council had been doing and what it might consider that would make it a smoother process than having 7 people running every two years for re-election. It is a companion piece and it was discussed at the committee and our view was that it was outside our mandate. This is not a committee recommendation but Chair Parachini's proposal only. It seems like a logical step that would particularly serve to implement the intention of a district council system.</p> <p>Mr. TenBruggencate said he would vote against this proposal but in order to give it the best chance of approval he would move to defer the matter until next month.</p>	<p>Mr. TenBruggencate moved to defer this item to February. Ms. Stiglmeier seconded the motion. Motion carried 5:0</p>
CRC 2016-02	<p><u>Proposed amendment from Commissioner Justus to Section 8.02 and adding Article XXXIII to create a County Attorney Commission to appoint, remove and have oversight of the County Attorney</u></p>	<p>Mr. Justus moved to defer this item to the next month's agenda. Motion died for lack of a second.</p> <p>Mr. TenBruggencate moved to receive the proposal. Ms. Stiglmeier seconded the motion. Motion carried 4:1 (nay-Justus)</p>
CRC 2016-03	<p><u>Proposed amendment from Commissioner Justus to Section 23.02 H allowing</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>volunteer board or commission members to serve on a different board or commission without being barred for one year</u></p> <p>Mr. Justus said this was an amendment the Commission approved for the 2012 ballot and was defeated. Mr. Justus strongly suspected the reason it was defeated is that most folks don't realize that board and commission members are not paid. Mr. Justus felt that since this Commission thought this was a good idea before that they represent it with the ballot question making it clear that we are unpaid volunteer service board and commission members. So if someone serves on a commission for 6 years they are eligible to go to another board or commission without being barred for a year.</p> <p>Mr. Guy said he sees the value in this but will not be supporting it based on the load of questions (being proposed for the ballot). It lost the last time so this is a hard one to get behind in the public's perception even though we are making that distinction.</p> <p>Ms. Stiglmeier thought the voters pretty much made it clear last time around and she will not be supporting this.</p> <p>Ken Taylor opposes this. The whole purpose of boards and commissions and time frames is to get people in the community involved – not rotate the same group of people over and over from one commission to another. It is all about community and you need to think about how to get the people involved – not how do we keep ourselves involved in the circle.</p>	<p>Mr. Justus moved to accept this item as a Charter amendment. Mr. Guy seconded the motion for discussion.</p> <p>Roll Call Vote: Nay-Guy; Aye-Justus; Nay-Stiglmeier; Aye-TenBruggencate; Nay-Parachini        Motion failed 2:3</p>
CRC 2016-04	<u>Overview of proposed amendments approved by CRC to be moved forward</u>	Mr. TenBruggencate moved to receive. Mr. Guy seconded the motion. Motion carried 5:0
CRC 2016-05	<u>Meeting Schedule for 2016</u>	

SUBJECT	DISCUSSION	ACTION
	<p>Mr. Furfaro pointed out there is a critical path involved and when they meet in February perhaps they start the meeting at 2:00 p.m. rather than 4:00 p.m. as it will be a meeting that demands a lot of time. The March 28 date is the cutoff for final approval on amendments. That is also the last date we are able to extend Mr. Joel Guy and Mr. Jan TenBruggencate to participate with you. We have an April 25<sup>th</sup> date to look at the proposed ballot questions and charter amendments that are prepared. May 30<sup>th</sup> the amendments need to come out from the review by the legal department. July 1 we need to finalize the voter's education material and prepare for publication. This Commission goes dormant December 31, 2016, without any other proposals to renew it. The Commissioners on the board at that time terminate – there is no continuation if there is a need to go into another ten year cycle approved by the voter.</p>	<p>Mr. TenBruggencate moved to receive the meeting schedule for 2016. Mr. Guy seconded the motion. Motion carried 5:0</p>
<b>Announcements</b>	Next Meeting: Monday, February 22, 2016 – <b>2:00 p.m.</b>	
<b>Adjournment</b>		<p>Mr. TenBruggencate moved to adjourn the meeting at 7:40 p.m. Ms. Stiglmeier seconded the motion. Motion carried 5:0</p>

Submitted by: \_\_\_\_\_  
 Barbara Davis, Support Clerk

Reviewed and Approved by: \_\_\_\_\_  
 Allan Parachini, Chair

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