COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved as circulated 8/22/16

Board/Committee:	**CHARTER REVIEW COMMISSION**	Meeting Date	**July 25, 2016**
Location	Mo'ikeha Building, Liquor Conference Room 3	Start of Meeting: 3:02 pm	End of Meeting: 4:49 pm
Present	Chair Allan Parachini; Vice Chair Ed Justus. Members: Merilee (Mia) Ako; Michael Perel; Patrick Stack; Cheryl Stiglmeier; Russell Wong. Also: Deputy County Attorney Adam Roversi; Boards & Commissions Office Staff: Support Clerks Barbara Davis and Darcie Agaran; Administrator Jay Furfaro		
Excused			
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Parachini called the meeting to order at 3:02 pm with 7 Commissioners present
Approval of Minutes	Executive Session Minutes of June 27, 2016 Regular Open Session Minutes of June 27, 2015 Chair Parachini noted on page 7, line 20, that the word "precedence" should be "precedents". Chair Parachini said on that same page 7th line from the top something did not read right to him although he thought he remembered Ms. Yukimura phrasing "to the town as a whole", which one would think it ought to be "county". Mr. Justus stated that she did say town.	Mr. Stack moved to approve the minutes as circulated. Mr. Wong seconded the motion. Motion carried 6:1 (nay-Justus) Mr. Wong moved to approve the minutes as circulated. Ms. Stiglmeier seconded the motion. Motion carried 7:0 as amended during the discussion.
Business	CRC 2016-10 Review and discussion of Voter Education explaining the County Charter Amendments Proposed in the 2016 General Election (On-going) Mr. Justus asked if they had the ability to amend what was presented to them. Staff said that is what they are there for but the ballot questions have already been voted on and approved by the body.	

SUBJECT	DISCUSSION	ACTION
	Mr. Justus noted that Ballot Question 6 Purpose *authorizes the County Clerk to determine whether a proposed charter amendment is valid* but there is nothing that states if he or she finds it invalid that he or she is required to seek a declaratory ruling. It implies that the county clerk is the ultimate authority in that matter and that is not the way the amendment is written. The Chair asked if Mr. Justus wanted to add language further explaining that the "Explanation" and "Purpose" language shown is new (material) but written from stuff previously approved by the body. Mr. Justus suggested adding a comma after valid (at the end of the sentence) and adding "if the county clerk finds a proposed charter amendment is invalid the county clerk is required to seek a declaratory ruling". Ms. Ako asked for a recess to find what the Commission approved and use that as a starting point. Chair Parachini called a recess at 3:09 p.m. Meeting was called back to order at 3:12 p.m. Mr. Wong stated that the Purpose is defined that way, however, the amendment clearly states that the county clerk does not have the complete authority so it will go by the amended charter – not by the Purpose. Chair Parachini agreed that the wording of the amendment was what matters. Mr. Wong said this is to give him, as a voter, an idea of what is being proposed and then he can get the specifics and more detail by doing his research. Chair Parachini's recollection was that there is a copy of the actual language in every polling place. Mr. Wong asked if the concern was that if they left the "Purpose" as is that people would read it and assume the	

SUBJECT	DISCUSSION	ACTION
	county clerk has full authority to deny a charter amendment and therefore vote against it. Chair Parachini said he did not want to put words in Commissioner Justus…….Mr. Justus said that was correct because even the way the ballot question is worded it actually implies that the county clerk has the sole authority to say this is valid or invalid and that is not what the charter amendment states. The charter amendment reads that the county clerk is given the ability to determine whether it is a valid charter amendment and if he finds it to be invalid he is required to seek a declaratory ruling from the courts. The ballot question does not state that – it is misleading. It misleads that the county clerk has the power to reject charter amendments and that can be a problem because there are many people who will not want the county clerk, who is not elected but appointed, to have the power to reject a voter petition that thousands of people have worked on. Mr. Wong said it sounded like the intent to provide a means to continue a voter petition getting a charter amendment but to minimize the impact on local legislation and that is why……Chair Parachini said the purpose was to define a charter amendment, which had not been previously defined, and then to better layout a process by which a proposed initiative charter amendment gets on the ballot. Mr. Wong was concerned that the more legalese they get into on a ballot the less he is inclined – he likes what has been attempted to explain a very complex issue in a way they can try to get people interested in it and make a decision on it. He did not know if they would ever be able to identify everything that is going on in a charter amendment, but this would give us enough information to make a decision on whether he wanted to approve this or at least make him interested enough to find out more details. Mr. Furfaro said there was dialogue about the county clerk and to remind the Commissioners the clerk and the deputy are reappointed each election with the new Council.	

SUBJECT	DISCUSSION	ACTION
	Mr. Justus said it was important that if they are going to present a charter amendment they better actually present what they proposed because otherwise they are asking for it to be defeated for a reason that it is not. We did not give the county clerk the ability to determine whether it is a valid charter amendment – we gave them the ability to say yes it is valid and we will put it on the ballot or no and we will have the courts decide. That has to be absolutely clear. The whole purpose of why Mr. Justus presented this charter amendment in the first place was to remove the Council out of the petition process – that is how this whole thing got started. Chair Parachini explained that this proposal arose out of the Kaua‘i Rising so called pesticide charter amendment to which Mr. Justus further provided history on the amendment. Chair Parachini said looking at the actual language that they approved the phrase that Commissioner Justus refers to is there – “the county clerk is required to seek a declaratory ruling” and thought Commissioner Justus had a point. Mr. Wong said his concern with a declaratory ruling is the more legalese we get into the more the ordinary voter gets concerned and he suggested they keep it more general. If the concern is the county clerk is to determine whether a proposed charter amendment is valid maybe it can be something to the effect that the purpose of this amendment is to authorize the county clerk to review the proposed amendment for validity; it doesn’t say what the county clerk has to do but the charter amendment will say the county clerk has to get some sort of judgement or declaration or opinion from the courts. Mr. Wong’s concern is if you give that kind of language to a voter he would be confused and he would have to get an attorney to tell him what the charter amendment is trying to do. Mr. Wong’s recommendation would be – and he hears Mr. Justus’ concern - that they do not want to imply that the county clerk determines it is valid but state it somehow that the clerk’s job is to review if it is valid, and by assumption if it is not valid they will……..Mr. Justus said it would be nice to have a more	

SUBJECT	DISCUSSION	ACTION
	simple way to say it but he does not know what that is yet. Mr. Perel said the assumption is that the county clerk has the expertise to judge the validity of the proposed charter amendment and not just to technical form but to the actual wording on whether it fits into the charter. Chair Parachini said that is true as far as it goes. Part of the discussion that was had was that the county clerk can call upon the county attorney for legal advice and presumably would do so if he or she felt that was necessary. It goes without saying that the clerk is not without the ability to get an informed legal opinion. Mr. Perel say that brings up a concern he has had and what happens when the opinion of the presenters of the amendment is at odds with the opinion of the county clerk or the administration. Mr. Furfaro said they should then get legal representation which the group two years ago did not get separate legal representation. Mr. Justus said to answer Mr. Perel's concern that is exactly the reason why they did not define in this charter amendment any county entity to have the ability to reject a voter petition – they would have to go to the courts for the courts to determine that. That is already existing case law – if there is a question it gets sent to the courts to decide. Mr. Wong said he, as the county clerk, would be required to follow whatever charter amendment is in front of him so they couldn't decide on their own if something is not a valid charter amendment. They would have to get some sort of declaration from someone that says this is the way it is so if we can phrase it in a manner that doesn't appear to give the county clerk full authority to reject a charter amendment - that would be his preference. But he does not want to have language that says you need to get a declaratory judgement. Attorney Roversi said whatever they approve today will be going to his	

SUBJECT	DISCUSSION	ACTION
	office for review and feedback and asked if he could make a suggestion that might satisfy both parties. If it read: *The purpose of this amendment is to authorize the County Clerk*, subject to court approval, *to determine whether a proposed charter amendment is valid.* Then you have inserted the authority of the court without using unnecessary legalese language about declaratory judgements that the public might not understand. Mr. Justus asked if they were able to amend the Ballot Question to which Chair Parachini said they approved it already. Mr. Justus asked if they could reapprove it – they set their own rules actually; they have the authority. Mr. Furfaro stated they have verbiage from the County Attorney and to have discussion on it they need a motion. Chair Parachini pointed out in the next sentence of the Purpose *It also seeks to limit a charter amendment* which he felt was not quite correct. It does limit a charter amendment to addressing the form and structure of county government – it doesn't try to do that, it does do that. Attorney Roversi said for the clarity of the discussion there should be some action on that motion before they move on to separate items so it is not confusing. Chair Parachini called for the vote. Chair Parachini asked if anyone cared about the issue "seeking to limit" as opposed to "limiting". Mr. Justus thought "limit" was not the right word and should say "It also defines" to which Staff said the language used seems familiar and must have been included in the language provided to Ms. Blane. Chair Parachini said the actual language is a further argument	Mr. Justus moved to amend the Purpose section to reflect the language used by the County Attorney. Mr. Perel seconded the motion. Motion carried 7:0

SUBJECT	DISCUSSION	ACTION
	for why "seeks to" is inappropriate since it does. Any amendment to this charter is limited in substance to amending the form and structure of county government. That does not seem like seeking to do that; it sounds like doing it. Mr. Wong said the way he read it was by recommending the amendment it is seeking to limit the…….it is saying if they pass it that is the point of seeking to limit it. Chair Parachini laughingly withdrew his comment. Mr. Justus again asked if it was possible to amend the Ballot Question. It was pointed out that Ballot Questions were voted upon and approved. The duty at hand is the educational language. Mr. Wong said if there is a substance issue they should address it but if it is just grammatical they need to move forward. Mr. Justus felt it was substantive and thought the question should include the language the Attorney proposed for the Purpose. Attorney Roversi said they did vote on it but if the entire body wishes to make a minor change in language that does not require this to go through multiple layers of re-review then it should not be a problem to amend a question that was previously approved if the board so votes. Mr. Stack said they need to act more in a vacuum. They have an obligation to make necessary and desirable changes. Is this minor grammatical glitch necessary and or desirable? We need to make up our own mind without worrying whether the courts are going to overturn this. We create a	Mr. Justus moved to amend Ballot Question 6 so it reads *"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*, subject to court approval, *to determine whether the proposal is a valid charter amendment?"* Mr. Perel seconded the motion.

SUBJECT	DISCUSSION	ACTION
	document and push it down the line; if someone wants to challenge it, so be it. We make what we believe to be necessary and desirable changes. Chair Parachini thought what Commissioner Justus is driving at is this is the document by which voters will make a decision on how to vote on the proposed charter amendment. Mr. Justus said the clearer we can make it to them the better job we are doing. Chair Parachini called for the vote. As a clarifying point, Ms. Davis stated "comma (,) subject to court approval comma (,)" would not be inserted into the Ballot Question but it would be inserted into the Purpose to which it was noted that was what was approved. Ballot Question 7, Chair Parachini said "on-going" is one word and not hyphenated. Chair Parachini called for a motion to approve the public education materials as amended.	Roll Call Vote: Nay-Ako; Aye-Justus; Aye-Perel; Nay-Stack; Nay-Stiglmeier; Nay-Wong; Aye-Parachini. Motion failed 3:4 Mr. Perel so moved. Ms. Stiglmeier seconded the motion. Motion carried 7:0
	<u>CRC 2016-14 Discussion of outreach for public education to include distribution points and media outlets (On-going)</u> Chair Parachini asked Mr. Furfaro for an update on the calls and contacts he was going to make. Mr. Furfaro said in a brief discussion with Ho'ike they are more than willing to put something on for us as we structure it, but they will seek some time restrictions for the particular piece. Mr. Furfaro confirmed that the Mayor's show no longer appears on Ho'ike. Mr. Furfaro said it would be a matter of calling in to Ho'ike to reserve some time and said he was not sure how the Commission feels as to who would make the presentation	

SUBJECT	DISCUSSION	ACTION
	suggesting someone from the Commission or perhaps the League of Women Voters. Mr. Furfaro also has the publication and print pricing for the *For Kaua'i* magazine and it would be a run that would be printed for the entire month. They would be willing to make some extra distribution copies that can be put in the neighborhood centers and so forth. Chair Parachini asked in terms of what we would pay them would they consider a teaser line on the cover saying proposed charter amendment details inside or something like that. Mr. Furfaro thought Barbara (Bennett) would be very open to that; she has always worked very well with us in the past. And we have already talked about the County website. Chair Parachini asked if anyone had a stroke of genius about the conundrum of how the miscellaneous change section (gender neutrality, punctuation, etc.) and how to make heads or tails out of that with all the details. There was a conversation of offering examples of some of the changes, but would we be set up to be accused of cherry-picking. Ms. Stiglmeier asked what if we present them with examples of the first two or three pages and say for the full compilation of the proposed changes please refer to the County website. Chair Parachini offered that an example of these changes are the ones on pages one, two and three. Ms. Davis said that was how it was presented in their packet two or three meetings ago, which brought up the nit-picking question. Ms. Stiglmeier said we would not be nit-picking because we would not be pulling from random pages but just showing the first two or three pages of the changes. Chair Parachini said as long as it was made clear he thought that would fly. Ms. Davis said (the grammatical changes) would appear in their entirety on the website. Chair Parachini asked Mr. Furfaro if he had a sense of how much copy they could accommodate. Mr. Furfaro said he measures that by knowing how much there is for the budget which will determine how much copy they can get. Obviously an earlier discussion they had was public libraries, the	

SUBJECT	DISCUSSION	ACTION
	whole contents on the web, maybe one or two examples of where people are referenced to but that newspaper does not put out 64 pages unless it is for a five month period. Chair Parachini asked if it was his impression that we have a full page of the publication to which Mr. Furfaro said yes. Mr. Furfaro's impression in talking with Ms. Bennett was they have both a left and a right page. Mr. Wong suggested they could show an example of changes by noting on the first page there were X number of commas added, X number of capitalizations made, X number of gender neutral changes which are reflected throughout the document. The real issue will be if someone says a comma modified the intent of the document. Chair Parachini said this would go to an editorial decision that the publication would have to make and called for a motion to approve the plan that Mr. Furfaro outlined subject to discussing the actual presentation format.	Mr. Wong moved that they direct Mr. Furfaro and Chair Parachini to discuss this with the editor of For Kaua'i publication and come to an agreement. Ms. Stiglmeier seconded the motion. Motion carried 7:0
	Mr. Justus noted that the email address listed for West Kaua'i Business & Professional Association is outdated and the president of that association is Eric Nordmeier. With Ho'ike Mr. Justus also thought it should be the responsibility of the Chair to explain the Charter Commission's position rather than the Chair and the Vice Chair. Mr. Furfaro noted that the League of Women Voters was one option put on the table as people recognize them for their ability to facilitate the middle of the line many times. Chair Parachini said this should be subject to the conversation with J Roberts (sic); maybe it could be a collaboration between the Commission and the League of Women Voters. It was asked if the League of Women Voters was an advocacy group to which the response was no – they are totally neutral.	

SUBJECT	DISCUSSION	ACTION
	<u>CRC 2016-15 Proposed amendment submitted by Commissioner Perel establishing a 5/2 Council districting proposal for the 2018 ballot</u> Chair Parachini made note that there are five scheduled meetings left before the Commission goes out of existence. This issue has been beaten to death but Commissioner Perel has valid reasons to reexamine it. If they are going to consider anything on this issue for 2018 they had better get moving and get through it or decide they are not going there. Mr. Perel asked the County Attorney that if the Commission ceases to exist at the end of its current term and we pass this to go on the ballot who would then be in a position to defend it going into 2018? Attorney Roversi said presuming they went through all of the steps required to put on a ballot initiative and came up with an approved question, the educational language and everything was approved it would presumably fall to the Boards and Commissions in 2018 to follow through on doing the educational material. There would be no other entity in place as long as the Charter Review Commission is not made into an ongoing entity. Chair Parachini called for a motion (to enable discussion). Mr. Perel said another question would be if there is a new Charter Commission appointed after this one comes to its end would that new Commission have the ability to modify or withdraw this from the 2018 ballot? Attorney Roversi said he would have to do some research but his off the cuff response would be yes – they are then the official Charter Review Commission and if they wanted to reconsider previously approved things	Mr. Perel moved to accept this amendment as written. Mr. Justus seconded the motion.

SUBJECT	DISCUSSION	ACTION
	that have not already gone to the voters that would be in the scope of their authority. Mr. Perel said then this entire discussion becomes basically a moot point because if the Commission is not reconstituted then they fall upon Boards and Commissions to validate and support it going forward, and if there is a new Commission appointed they may not be in favor of this so it jeopardizes the ability to get this on the ballot. Mr. Perel thinks this is something worthwhile and this type of representation is good for the County. There is nothing like having your representative living next door to you and in reading through Councilmember Yukimura's letter he finds that many of her arguments fly in the face of how the democratic system works – a give and take between members, and the assumption of having horse-trading going on is to the detriment of the County because that assumes the Council is not in a position to make prudent decisions going forward. Mr. Perel's personal opinion is that this is important enough to be on the ballot and to allow the voters to make a decision as to whether they want a constituted board to have a representative that is close by and accessible with 2 at-large members available. Councilmember Yukimura's argument is we have 7 now that will come and hear it. But Mr. Perel said there are none that are guaranteed to be vested in it whereas if it is a person from your community or district you have a whole different relationship. Mr. Perel said it was worthwhile and valid for this Commission to put something of this nature on the ballot. Chair Parachini said what Mr. Perel was saying irrespective of the potential risk of anything they vote on being nullified by subsequent …….it is worth it? Mr. Perel said yes, it is worth making a statement that we think it is important enough as a first step in revising how government responds to the public.	

SUBJECT	DISCUSSION	ACTION
	Chair Parachini questioned that they would have to take public testimony and notice this again. Mr. Furfaro said they would have to do all of that and those serving in their second term, should there be a new Commission, would not be reappointed but those that are in the first term could possibly be reappointed to the new Commission if it passes. Mr. Perel noted that Mr. Furfaro had been quite helpful to him in explaining process and in guiding him through this morass. Asked his thoughts on districting and this particular proposal Mr. Wong said there are so many issues on both sides of this – the size of the island, the needs of the island – it is definitely an issue that should be discussed but it did appear that a lot of discussion had occurred prior. His concern with districting is you get more representation of individual communities, but because the voter turnout is so low you have people who can become elected with a couple hundred votes. Is it truly best for an island that you don't have unlimited financial capacity but you have to look at the island as an island. Is it big enough and is there enough revenue collection to support multiple points of view. Mr. Wong said he is all for going through the process but the concern is do they have enough time to get all the input they need. Mr. Wong said not only has the Charter Commission gone through this but he thinks the Council has also tried to go through this same kind of a scenario so it is a challenge. If they were able to get through everything in their final five meetings and the Charter Review Commission is not approved to be an ongoing Commission he assumes it would then be on the (2018) ballot. If the Charter Commission does go on he would assume there would have to be an affirmative decision to remove this from the 2018 ballot if it gets that far. Mr. Wong said having read some on this and seeing the pros and cons he is not sure the Commission can get that far in five meetings. Chair Parachini said his understanding is if the Commission votes	

SUBJECT	DISCUSSION	ACTION
	something on to the 2018 ballot while we are still alive it is on the 2018 ballot whether we are around or not unless someone removes it. If there is no Charter Review Commission after January 1, 2017, does anyone have the power to remove this from the 2018 ballot? Attorney Roversi said he did not believe so. He believes that the Office of Boards and Commissions, as the administrative support for this current Charter Commission, would be obligated to follow through on the decision of the Commission. Mr. Stack said if in fact we are sunsetted the whole notion we are talking about (inaudible). There is no one to support it, to defend it, promote it – it is gone. It would be a very, very sad day in this County if we do not approve this Commission going forward. Mr. Wong said they have already recommended it – it is up to the voters now. Mr. Stack said he knows they should not make this personal but this is a very personal issue for everybody who votes for or against it. Chair Parachini explained there was a committee consisting of himself, Commissioner Stack and Commissioner Ako that conducted a Survey Monkey poll, met several times and formulated a version of the 5/2 amendment which was subsequently revised into the form it now is. There was a report of the committee that might be useful for Mr. Wong and Mr. Perel which Staff was asked to forward a copy to them. Mr. Justus said he could summarize what the poll said. Basically it said 27% of the island wants the County Council the way it is. About 70% said they wanted some form of districting whether it was 7 districts, 5 districts or 3 districts. The largest percentage of those district selections was for 5 districts 2 at-large. Mr. Furfaro thought he should hold that thought until they get the report back. Chair Parachini thought Mr. Justus was right in	

SUBJECT	DISCUSSION	ACTION
	that 5/2 was, by a nose. Mr. Furfaro apologized saying the State districts was the one that got the least. Chair Parachini said the numbers (from the survey) are in the report from the committee. Ms. Ako said if they go back over previous charter ballot questions, districting has failed. If you look at the results (of the Survey Monkey) it is very similar to what has happened in the past. Our island, if you just look at numbers individually – don't lump the districting together – this island is confused but most of the confusion says we would like to keep it as is, which is 7. Ms. Ako said there were public hearings and there were not a whole bunch of people coming but those that did were of the sentiment that the island was not big enough. We went through the vote and it did not pass and it was brought up again because now we have new commissioners. We can go through this discussion and throw it again to the voters, but the question is how many times are we going to beat this horse? Mr. Justus wanted to make a point clear saying it was a bit of a misnomer to say the Commission voted against the charter amendment for districting. If Joel Guy had been here and not had an emergency……Ms. Ako said it was voted down. Mr. Justus said it was voted down 3:3 and Joel Guy was in support of that amendment and he would have voted yes and it would have been on the 2016 ballot. In reality if we would have had a full board it would have been on the ballot, so a majority of the board did support it. Ms. Ako said going back to the statement she just made you can see how we split this island - even in this small Commission we are not in agreement. Mr. Perel said he could see no reason why they would not put a proposal such as this on the ballot for the voters to decide. The distribution of votes for districting to be done as proposed by a commission or committee there is enough data available to come up with a proper distribution of districts. The tool of democracy to put this on the ballot, one shows an intent to	

SUBJECT	DISCUSSION	ACTION
	address an issue that he has been hearing for the 21 years he has been living on island. Mr. Perel said he does not accept the definition that we are too small to do it, and is not a valid reason not to propose this and move it forward. Mr. Stack said his position has never changed; he is in favor of districting and the population is more than ample to justify it. Necessary and desirable is tattooed in his brain and he thinks districting is necessary at this time and it is certainly desirable. Ms. Stiglmeier said if we are looking at our different populations the individuals she has talked with can't tell her what they think would be ideal as far as how they would break up the different districts. The individuals that were in agreement asked where do they draw that line for the North Shore – would the folks on the North Shore be okay with including parts of Anahola? Would Po'ipū be okay with being lumped in with the West Side? She has never gotten anything that is really definitive or what anyone thought would be ideal for our island. Chair Parachini said the problem that is posed by just how this would have to be done was misconstrued by Councilmember Yukimura. It is to the issue if we put something on the ballot people would want to know what the district lines are, but we can't tell them that until it passes and an apportionment commission can draw district lines based on one person, one vote. A lot of the voters think communities would be identified in these districts – uh-uh – that is not how it would work. It would be a one person, one vote system. Mr. Furfaro said when they did the survey, part of the question was with the reapportionment. Could we use the current boundaries that are set by the State, and that was the confusion, on the 4/3 versus 5/2? If 5/2 passes	

SUBJECT	DISCUSSION	ACTION
	obviously you would have to do the allocation of residents by the geographic sites. Some of those that responded said they wanted a Hanalei district – a Kekaha district. On the flip side one of the things we didn't survey is the Maui model that lets everybody in the County vote; what determines what district you can run for is where your residence is. Reappointment would require definitely the geographic boundaries of the population. Another option was everybody voting in the County regardless of where they lived. Mr. Justus pointed out that the Maui model is not without its flaws. Mr. Furfaro said he was not there to defend it; he is just very familiar with it. Mr. Justus said he did not know if any of the other Commissioners were aware of its flaws and it would be wise for him to point them out because it could be easily construed that it is a good compromise to have both at-large and district requirements. Mr. Justus went on to explain the instances on both Molokaʻi and Lānaʻi where the popular vote in that district was not the popular vote from the rest of Maui. Mr. Wong said the duty of our appointment to this Commission is we should be open to whatever is presented to us and then make a decision after we hear the information. What concerns him is where they go in with an objective because that is where we believe it should be. If we go forward with this and hear from people, do our due diligence and listen to both sides with an open mind - then make a decision once we hear it all. He wanted to make sure that is how everybody is looking at this. Mr. Wong questioned whether they have time for this without having to rehash what the Commission has already gone through, but he would like to hear the issues on both sides and then make a decision. Mr. Justus said the easiest way for Mr. Wong to do that is between this meeting and the next is to review the Charter meetings from 2011 to today.	

SUBJECT	DISCUSSION	ACTION
	Mr. Justus stated he was on the first Permitted Interaction Group and they discussed the various ways of doing districting either 3 districts, 5 districts, council regional committee or neighborhood boards instead of districts. We settled on districts. Mr. Stack was on another committee a couple of years later that discussed this issue and took it to the public so we have had a lot of vigorous discussion on this. The information is there on the County website. Chair Parachini said there was an excellent summary, he believed prepared by Mr. Furfaro, reviewing what was on the ballot and it has been on the ballot 3 times. It was like a spreadsheet that described what was on the ballot and what the outcome was. The margins of defeat were less each time. Mr. Furfaro cautioned the Commission that the Office of Boards and Commissions is subject to a preliminary election on August 13 and there are duties that come with that in the office along with an attrition of staff. Staffing the various boards and commission monthly meetings make it difficult with going out to staff community meetings or do any kind of research. That is why we relied on the Survey Monkey and he was really surprised by the number of responses received. Mr. Perel said the trepidation he thinks he hears is on the mechanics of how to create the districts and he did not think this was a valid reason not to bring this forward. That mechanism, once put in place, would be subject to public input and becomes a straight forward, if you are going to do a one man, one vote, of where you are going to draw the lines. You still have your one representative and 2 at-large and if the County wants to get anything done they will get together as a group. The representation of democracy will work so he did not know if it was a valid reason not to put this forward that they are worried about the mechanics of how the districts	

SUBJECT	DISCUSSION	ACTION
	will be created. That becomes a secondary issue towards feeling this is important enough to bring it forward. Chair Parachini said if it was 5 districts elected at-large that takes the apportionment off the table and it is what it is. Chair Parachini said personally he would vote against that every time it comes up to vote for district representatives at-large. Mr. Perel said the prime example is in the State of Hawaiʻi there is a central Board of Education who is basically inaccessible. If there were a local Board of Education and every month the meeting was in one of the 5 districts the parent turnout would shock you. If you want to bring democracy close to home and get greater input from the public this is the number one mechanism to do it - that is how important it is. Mr. Justus queried where the Commissioners live and then said generally for the most part the majority of the Council makeup is typically Līhuʻe/Kapaʻa residents. For us on the outskirts we seem to understand the need and the desire for district representation. If you break up the 2006 vote in the 5 districts, all the outlying communities voted to approve it. Mr. Perel explained the need for housing development in Waimea ten years ago and the project did not go forward because there was no water and the reasoning given was the water was controlled by Līhuʻe. This is a small island and it shouldn't happen like that. Mr. Furfaro said bringing it back to what is on the agenda, is the Chair encouraging a vote to see if the group continues with this for the last 5 months. Mr. Justus called for the vote. Chair Parachini said they are voting on	

SUBJECT	DISCUSSION	ACTION
	Commissioner Perel's motion to put this particular districting plan on the 2018 ballot. Ms. Ako did not think that was the question – it was whether we move forward. Chair Parachini said the motion was to put it on the 2018 ballot so this would have to be deferred or continued because we can't take the action that the motion requires. We would have to notice it publically. Mr. Justus said it is publically noticed and he read the agenda item and according to their rules they can just vote on it and get a County Attorney opinion back and then do a final vote. Ms. Ako said every proposal has to go through 3 hearings and this is the first one. The second hearing is for public and the third reading is for vote. We cannot put everything together today and vote. Mr. Justus said it says twice in the rules; Council is three times. Attorney Roversi said Rule 2 b requires that matters of substance be considered and approved at two public meetings. After those two publically noticed meetings at which a matter like this is approved by a vote of the board it would then go through the process you have just been through where it gets referred to the County Attorney for an initial review. It comes back to you for any changes you make and another public hearing then you have to develop the ballot question and the findings and purpose for review and approval. Chair Parachini asked what should be decided today. Mr. Justus said to be clear it says two publically noticed meetings – not two public hearings. Mr. Justus said they can approve it because this is a publically noticed meeting and it then goes back to next meeting which is a publically noticed meeting. We approve it after reviewing the County Attorney's opinion and then it can go on the ballot. Attorney Roversi said his understanding is after their second public meeting it would then go to the County Attorney's Office for approval. Attorney	

SUBJECT	DISCUSSION	ACTION
	Roversi said he was giving off-the-cuff answers without having been able to review everything. The idea being they would ask the County Attorney for review after their second meeting on the assumption that perhaps changes could be made at that second meeting. You would not ask for County Attorney review after the first meeting with the possibility that amendments or changes are made at the second meeting. It is after that second required meeting that the motion is effectively a done deal and would then be passed to the County Attorney's Office. Chair Parachini said Commissioner Perel's motion was to approve this and put it on the 2018 ballot and asked if Commissioner Perel would be well advised to withdraw that motion and rephrase it. Attorney Roversi believed perhaps the correct language would be approve and refer for a second public meeting. Mr. Justus said in the six years he has been on this Commission we have never had to do two meetings. In fact he can recall several meetings where there has been an item proposed, they approved it for the ballot and the next meeting was when we got the County Attorney's opinion back and then we voted on it to put it on the ballot. By what the Attorney is describing is we have actually committed errors in our rules. Attorney Roversi said he wanted to qualify what he is offering to them is typically the County Attorney will acknowledge their question and get back to them. He is trying now to provide them with information with just a quick review of the rules. If the Commission would like to extend the Attorney fifteen minutes to read through the rules he could speak to their point of exactly when does this need to go to the County Attorney's Office for review. Mr. Furfaro stated that as the County Attorney pointed out there will be at least another meeting as such if the motion is changed and then there will be a time when they get back to us with the particular details. Then there will be questions about how substantive is the definition of what districts there	

SUBJECT	DISCUSSION	ACTION
	are. Quite frankly we will then be in October or November. Chair Parachini said the Commission would still be alive and kicking. Mr. Wong said something of this magnitude he would definitely want to have public testimony before he would make a decision. Chair Parachini asked if Mr. Wong was not prepared to vote on this today. Mr. Wong said we can vote on it today but his concern is if they vote to move it today and the public comes in at the next meeting to let us know how they feel are we kidding ourselves with the time we have and can we do everything we need to get done before we sunset. Mr. Perel said it seemed important enough to him to start a process, even with the short time left, because it makes a statement we were concerned enough to make a proposal to make a dramatic change in the way governance is handled in the island. Mr. Perel requested assistance in changing his motion so this can be moved forward to the next step if the board sees fit. A recess was called at 4:36 p.m. The meeting was called back to order at 4:40 p.m. Attorney Roversi summarized his understanding of the rules. Rule 2 b provides a generalized requirement that matters of substance be approved at two public meetings. As an example this could be the first public meeting that this matter of substance is considered and approved at. Rule 4 sets out the step by step process of approving something for amendment and Mr. Justus is correct in that there is no requirement that it go through both meetings before being referred to the County Attorney. 4 a regards the introduction and initial approval of an amendment. 4 b specifies that upon the initial adoption it goes to the County Attorney's Office for comment and review as to legality. Back to the practical application if you approve this today it could then be referred to the Attorney's Office for review which	

SUBJECT	DISCUSSION	ACTION
	would be available at the next meeting which would stand as the second public meeting under 2 b that would be required to approve it and then go on to the next steps of developing the educational materials, approval of the findings and purpose, the ballot question, etc. One slight caveat is that – and it is because these rules are somewhat vague so they are open to interpretation – so if a matter of substance is approved at a first meeting then you receive your attorney opinion and significant changes are made to the matter such as it is not really the same thing as was approved previously then arguably you are still going to have to have an additional two meetings that the public can come and comment on. If insignificant or insubstantive changes were made then you would probably still be satisfying the two meeting requirement – you would not need to start the clock over again. It would depend on what occurred at the second meeting as to whether that satisfies the second meeting requirement or if the motion is substantively changed you might have to have a third meeting to satisfy rule 2 b. Mr. Justus said in theory if we voted to approve this and get majority approval at this meeting and at the next meeting we get the County Attorney's opinion back and nothing changes in that language and we approve it we are good to go forward with developing educational material. Attorney Roversi said that is his understanding. Mr. Perel said why not (inaudible) the public to speak to this and in the past if there have been amendments that made the ballot that were not a unanimous approval of the board was that stated or was that position of the pros and cons listed anywhere or was the result of the vote put down – what is the process. Mr. Justus did not think they said either; it just says the Commission approved. Mr. Perel said this is a critical enough issue that if nothing else it shows the intent of the Commission to try to make a substantive change in governance.	

SUBJECT	DISCUSSION	ACTION
	Chair Parachini thought Commissioner Justus' recollection about the vote they took on this to which former Commissioner Guy was unable to attend was correct and that Commissioner Guy would have voted in favor of what was on the table. Personally Chair Parachini said he had some real reluctance about putting something of this import on the ballot by a 4:3 vote. We should be able to come to more of a consensus than that. Mr. Furfaro said they did have a 3:3 vote but they had the opportunity to have a vote to reconsider the vote and do it at the next meeting. If we are making a point about someone not being in attendance there is a way to modify that. Mr. Justus pointed out that meeting was Joel Guy's last meeting – he would have had no way to reconsider a vote in the April meeting. Mr. Furfaro said Mr. Guy could have asked for a special meeting because of his attendance and the Chair could have considered calling a special meeting before his actual date of termination. Asked if Mr. Guy was made aware of that Mr. Furfaro thought Mr. Guy probably knew the rules well enough that it could have been done as well as the rest of you. Mr. Justus said that is the first time they have ever been told that any of them can request that. Mr. Furfaro said he has covered this in his trainings.	Mr. Perel withdrew his original motion.
	Mr. Justus said he was hesitant to withdraw his second because he would really like to find out what the reasoning is. Mr. Perel said he would like to propose to follow the description of process that the County Attorney gave us to move it on to the next meeting and asked if there was something he had to do to move this into meeting number two or does he leave it stand as is because it is proposed to put it on the ballot. Mr. Justus said what he described is we can approve this here, this is our first public noticed meeting. If that gets approved here we then go to our next meeting with the County Attorney opinion and once we approve that it goes on to the ballot. Attorney Roversi said in light of his summary a few moments ago the only	Mr. Perel moved to approve (the proposed

SUBJECT	DISCUSSION	ACTION
	thing to possibly add to the motion is to approve and refer to the County Attorney. Mr. Justus called for the vote. Chair Parachini stated that the motion is to approve the districting plan and refer it to the County Attorney for review.	amendment) and refer it to the County Attorney. Mr. Justus seconded the amended motion. Roll Call Vote: Nay-Ako; Aye-Justus; Aye-Perel; Aye-Stack; Nay-Stiglmeier; Nay-Wong; Nay-Parachini. Motion failed 3:4
Announcements	Next Meeting: Monday, August 22, 2016 – 3:00 p.m.	
Adjournment		Mr. Justus moved to adjourn the meeting at 4:49 p.m. Mr. Wong seconded the motion. Motion carried 7:0

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

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