

Jan TenBruggencate
Chair
Marissa Sandblom
Vice Chair

Members:
Virginia Kapali
Carol Suzawa
Patrick Stack
Lori Koga
Reid Kawane

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

Monday, Aug. 26, 2019
3:00 p.m. or shortly thereafter
Mo'ikeha Building, Meeting Room 2 A/B
4444 Rice Street, Līhu'e, HI 96766

CALL TO ORDER

COMMUNICATIONS

CRC 2019-08 Confidential communication received from Deputy County Attorney Adam Roversi on July 30, 2019 regarding amendment to Charter Section 23.06

APPROVAL OF MINUTES

Open Session Minutes of July 22, 2019

BUSINESS

CRC 2019-02 General Discussion on Charter Initiatives of Interest

CRC 2019-03 Discussion on County Auditor Position

CRC 2019-04 Discussion and decision on Charter Section 23.06 proposed amendment

CRC 2019-05 Proposal to add to Charter, qualifications for Police Chief

CRC 2019-06 Letter received from Board of Ethics dated June 28, 2019 regarding Ethics Disclosure Statements Requirements

Board of Ethics representative invited to discuss proposal

CRC 2019-08 Email received from the Prosecuting Attorney to Charter Commission dated July 19, 2019 regarding Charter Amendment Proposals to Section 1.03B1 and Section 9A.05A

Prosecuting Attorney invited to discuss proposals

ANNOUNCEMENTS

Next Meeting: Monday, September 23, 2019, 3:00 p.m., in the Mo'ikeha Building, Meeting Room 2A/2B

ADJOURNMENT

NOTICE OF EXECUTIVE SESSION

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

ES-010 Pursuant to Hawai'i Revised Statutes (HRS) §92-4, §92-5 (a) (4), the County Attorney will provide a briefing, discussion, and consultation regarding the amendment of Charter Section 23.06 relating to notice of Claims against the County.

cc: Deputy County Attorney Adam Roversi

PUBLIC COMMENTS and TESTIMONY

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

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

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

The length of time allocated to persons wishing to present verbal testimony may be limited at the discretion of the chairperson or presiding member.

Send written testimony to:

Charter Review Commission

Attn: Anela Segreti

Office of Boards and Commissions

4444 Rice Street, Suite 150

Līhu‘e, HI 96766

E-mail: asegreti@kauai.gov

Phone: (808) 241-4917 Fax: (808) 241-5127

SPECIAL ASSISTANCE

IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR ASEGRETI@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission:	CHARTER REVIEW COMMISSION	Meeting Date	July 22, 2019
Location	Mo‘ikeha Building, Meeting Room 2 A/B	Start of Meeting: 3:05 p.m.	End of Meeting: 3:43 p.m.
Present	Chair Jan TenBruggencate, Vice Chair Marissa Sandblom arrived at 3:25pm. Members: Carol Suzawa, Virginia Kapali, Patrick Stack, Lori Koga, Reid Kawane. Also: Deputy County Attorney Adam Roversi. Boards & Commissions Office Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti. Testifiers: Arryl Kaneshiro, County Council Chair, Jade Fountain-Tanigawa, County Clerk		
Excused			
Absent			
SUBJECT	DISCUSSION	ACTION	
	Prior to the start of the meeting, County Clerk Jade Fountain-Tanigawa gave the Oath of Office to new Commissioner Reid Kawane.		
Call To Order			Vice Chair TenBruggencate called the meeting to order at 3:05 p.m. with six members present which constituted a quorum.
Election of New Chairs	Former Chair Ricky Watanabe has moved to a different Commission leaving an opening for Chair position. Jan TenBruggencate is current Vice Chair/Acting Chair and willing to serve as Chair to the end of the year. Marissa Sandblom is willing to serve as Vice Chair and is being recommended.		Ms. Suzawa moved to elect Vice Chair Tenbruggencate to Chair and Ms. Sandblom to Vice Chair. Ms. Koga seconded. Motion carried 6:0.
Communications	<u>CRC 2019-06 Letter received from Board of Ethics dated June 28, 2019 regarding Ethics Disclosure Statements Requirements.</u> Chair TenBruggencate suggested letter be received and discussed later.		Ms. Suzawa moved to receive CRC 2019-06. Ms. Kapali seconded. Motion carried 6:0

SUBJECT	DISCUSSION	ACTION
	<p><u>CRC 2019-07 Confidential communication received from Deputy County Attorney Adam Roversi on July 3, 2019 regarding amendment to Charter Section 23.06.</u></p> <p>Chair TenBruggencate stated that the Commission had waived confidentiality on this item at last meeting, but that Mr. Roversi alerted Commission that they must waive confidentiality again. This item has no particular sensitivity, but it is standard practice as a confidential communication.</p> <p>Mr. Roversi informed Commission that all County Attorney letters will come as a confidential communication and it is up to the Commission as to if they want to waive that confidentiality and discuss in open session or have a discussion in executive session. He does not see any particular reason why it must remain confidential.</p> <p>Chair TenBruggencate reminded Commissioners that they waived last time.</p>	<p>Ms. Koga moved to waive confidentiality on CRC 2019-07 confidential communication. Ms. Suzawa seconded. Motion carried 7:0</p>
<p>Approval of Minutes</p>	<p><u>Open Session Minutes of June 24, 2019</u></p>	<p>Ms. Suzawa moved to receive CRC 2019-06. Ms. Kapali seconded. Motion carried 7:0</p>
<p>Business</p>	<p><u>CRC 2019-02 General Discussion on Charter Initiatives of Interest</u></p> <p>Chair TenBruggencate recognized that the Commissioners should consider the Ethics Disclosure letter. He suggested to defer this to the next meeting to discuss further and create an agenda item.</p> <p>Ms. Kapali asked to invite someone from the Board of Ethics or their Counsel to the next meeting to elaborate on the letter.</p> <p>Asked to add to next month's agenda.</p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>CRC 2019-03 Discussion on County Auditor Position</u></p> <p>Continued discussion of County Auditor Position and possibly recommending the removal of the County Auditor Position from the Charter. County Council is continuing to try and hire, but suggestion has been to proceed by hiring Auditors in the specific field of interest, rather than having a single in house expensive Auditor.</p> <p>Asked the County Council and County Clerk’s office to come and talk with Commission regarding where things are and any recommendations.</p> <p>Council Chair Aryl Kaneshiro and County Clerk Jade Fountain-Tanigawa appeared before the Commission. Ms. Fountain-Tanigawa distributed the Report to the Charter Review Commission: July 22, 2019 (on file) to the Commission.</p> <p>Council Chair Kaneshiro gave a breakdown of what is going on, process. Extensive rounds of trying to find qualified people in 2014, made one offer and person decided not to take the job. Second round by an Executive Search Committee which had four potential candidates, but did not find someone qualified with a good fit. Now on third round which is in process, have not had interviews yet. Hawaii applicants are few. Applicants worldwide, many have not been to Kauai and do not know about the island, many have not been to Kauai and don’t know the cost of housing, etc. They want someone who’s going to be here for their six year term, so need to find a good fit. Person has to have the vision of what the office will look like and what they are going to do, it’s a clean slate. Report shows the cost of having an Auditor’s office compared to contracting audits out, it would be more cost efficient for the County to contract audits out than staff an office. Cost just shows salaries, not office equipment or anything else they may need. Historically they actually contracted out a lot of the audits, contracted nine audits and followed up on two internally. So he believes they are doing what Council could do without an Auditor’s office which is to contract out. \$250,000 has been put in the County budget for audits. Went out for four audits this past fiscal year. They believe they will be able to do three or four this fiscal year. In his opinion if they are looking to make any changes of the language, the question</p>	

SUBJECT	DISCUSSION	ACTION
	<p>would be what is the most appropriate action to take for the County. He feels that an option to have an Auditor or to contract out audits would be better than to just have a measure to eliminate the position completely.</p> <p>Chair TenBruggencate went over the three ways to get an amendment on the ballot: 1. Citizen petition, 2. Charter Review Commission, 3. County Council. Asked if the Council had any inclination in taking this on. Suggestion of changing the language to provide an option is interesting and one not heard before.</p> <p>Council Chair Kaneshiro is not sure what all Council Members will think about it. They are currently in process and if Council was to take any action it would have to be after the current process that they are in.</p> <p>Discussion of why Auditor position is in the County Council, County Clerk office. It is in the Charter.</p> <p>Ms. Fountain-Tanigawa stated that the position is a Council appointment and it is supposed to be independent. The term is for six years according to the Charter.</p> <p>Discussion on CAFER and Finance's role to assist in developing, but audit under the County Clerk's office. Council is looking at more performance audits. Mayor and Council worked together and identified four audits for the fiscal year (page two of report) based on what the Mayor and Council was interested in.</p> <p>Discussion of possible amendment options and clarification of Council currently having the option to do audits in house, if we do not and cannot find an Auditor.</p> <p>Deputy County Attorney Roversi read Section 3.1.2 of the current Charter provides that the Council has the authority to conduct financial and performance audits.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Discussion of possible language for change in Charter regarding the option stated above and continued problems of hiring an Auditor.</p> <p>Chair TenBruggencate requested an update after this round in the process.</p> <p>Council Chair Kaneshiro agreed to come back once gone through process. He stated that much of this is his own opinion regarding cost savings and being more efficient. It will take the Council to vote to make changes to the Charter after this process is completed. He will suggest if they do not have a hire after this process to look at making a change to the Charter.</p> <p>Chair TenBruggencate thanked Council Chair Kaneshiro and County Clerk Fountain-Tanigawa for coming.</p> <p>Council Chair Kaneshiro thanked the Council for their service.</p> <p>Chair TenBruggencate invited a motion to defer and keep on agenda.</p> <p>Ms. Sandblom joined the meeting at 3:25pm</p>	<p>Ms. Suzawa moved to defer CRC 2019-03. Ms. Koga seconded. Motion carried 6:0.</p>
	<p><u>CRC 2019-04 Discussion on Charter Section 23.06. Claims</u></p> <p>Confidentiality has been waived on CRC 2019-06 relating to this item.</p> <p>Mr. Roversi went over the communication regarding proposed language. Mr. Roversi provided two alternatives to stating a two year time period and the pros and cons. One would have a statement referring to, “the time period provided under state law” and the second would site the statute section, “the time period provided in Hawai’i Revised Statute section 46-72”.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Discussion on the 2 years as a standard and unlikely hood of it being changed.</p> <p>Mr. Roversi stated it has been the State’s statute of limitations for several decades. It was imposed upon the Counties to mirror the State’s for at least a decade.</p> <p>Clarified that it is currently six months in the current Charter.</p> <p>Chair TenBruggencate entertained a motion to have draft language prepared for the ballot.</p>	<p>Ms. Kapali moved to have the Deputy County Attorney draft language for the ballot regarding CRC 2019-04. Ms. Sandblom seconded. Motion carried 7:0.</p>
	<p><u>CRC 2019-05 Proposal to add to Charter, qualifications for Police Chief</u></p> <p>Ms. Ching informed the Commission that it is on the Police Commission agenda for next week.</p> <p>Chair TenBruggencate suggested to defer and take it up when they are ready to talk with Commission.</p>	<p>Ms. Suzawa moved to defer CRC 2019-05. Ms. Sandblom seconded. Motion carried 7:0.</p>
<p>Communications</p>	<p>Ms. Ching stated that a late communication by email was received by Ms. Ching from the Prosecuting Attorney’s Office (on file) which was distributed to the Commissioners regarding election for the Office.</p> <p>Chair TenBruggencate suggested it be received and added to next meeting’s agenda. The communication is regarding if only two people running for an office, than the election happens in the Primary. Also amending Section 9A.05A.</p> <p>Mr. Roversi stated that 9A.05A has to do with an appointment when there is a vacancy, (paraphrasing)if there is more than eighteen months left there is a special election, if there’s less</p>	

SUBJECT	DISCUSSION	ACTION
	<p>than a year than appointed by the Mayor. Leaves an open question of if it's between a year and eighteen months.</p> <p>Ms. Kapali requested that the Prosecuting Attorney attend the next meeting.</p> <p>Chair TenBruggencate said that can invite, but will discuss further at next meeting.</p>	<p>Ms. Sanblom moved to receive the communication and make it an agenda item for the next meeting. Ms. Stack seconded. Motion carried 7:0.</p>
Announcements	<p>Next meeting: Monday, August 26, 2019, 3:00 p.m., in the Mo'ikeha Building, Meeting Room 2A/2B.</p>	
Adjournment		<p>With no objection, Chair TenBruggencate adjourned the meeting at 3:43pm.</p>

Submitted by: _____
 Anela Segreti, Administrative Specialist

Reviewed and Approved by: _____
 Jan TenBruggencate, Chair

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

Dean Toyofuku
Chair

Mia Shiraishi
Vice Chair

Susan Burriss
Secretary



Members:
Susan Burriss
Michael Curtis
Ryan de la Pena
Maureen Tabura
Mary Tudela

COUNTY OF KAUA'I BOARD OF ETHICS

c/o Office of Boards & Commissions

4444 Rice Street, Suite 150

Līhū'e, HI 96766

RECEIVED

June 28, 2019

Mr. Ricky Watanabe
Chair Charter Review Commission
c/o Office of Boards & Commissions
4444 Rice Street, Suite 150
Lihue, HI 96766

JUN 6 2019

BOARDS & COMMISSIONS

Re: Board of Ethics (BOE) concerns regarding the Ethics Disclosure Statements Requirements

Dear Chair Watanabe:

During a recent Board of Ethics revision of the instructions to the Disclosure Statement the Board of Ethics members discovered a potential limitation that we felt important to bring to your commission's attention.

From the Instruction sheet for disclosure statement's current language:

- I. WHO MUST FILE. The Mayor, Councilpersons, Prosecuting Attorney, all department heads and deputies, members of boards and commissions, the purchasing agent, and all candidates for elective office.

Revised language (**in bold**) by commission vote as of May 17, 2019:

- I. WHO MUST FILE. The Mayor, Councilpersons, Prosecuting Attorney, all department heads and deputies, members of boards and commissions, the purchasing agent, **any employee delegated or authorized to act on behalf of the director of finance and deputy director of finance in their absence**, and all candidates for elective office.

An Equal Opportunity Employer

CRC-2019-06

Charter - Section 20.04. Disclosure Excerpt

- A. The mayor, councilpersons, all department heads and deputies, members of boards and commissions, the purchasing administrator and any employee delegated or authorized to act on behalf of the director of finance and the deputy director of finance in their absence shall within thirty days of assuming office, file with the board...etc.

Our commission had two concerns about the new language we approved which was copied from existing charter language:

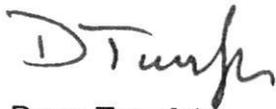
- 1) The limitation of the delegation authority disclosure requirement to only the finance department head and his/her deputy, and
- 2) The absence of recent new titles, i.e. managing director, mayor's chief of staff, etc.

The Board of Ethics did not feel it appropriate to update our language in any way that was broader in scope than that in the Charter.

As we understand it is the Charter Review Commission's defined role to review the operation of the county government under our charter, on behalf of the Board of Ethics, I respectfully request your study and review of broadening the requirement to file a disclosure statement to all individuals who are in a position that on occasion will serve as a department head or deputy with all the responsibilities of that position.

Secondly, that the listing of new key titles/positions be included in the Charter.

Sincerely,



Dean Toyofuku
Chair - Kauai County Board of Ethics

Anela Segreti

From: Ellen Ching
Sent: Friday, July 19, 2019 8:08 AM
To: Anela Segreti
Subject: FW: Charter Amendment Proposals

Response from Prosecuting Office to Charter Commission

-----Original Message-----

From: Justin Kollar <jkollar@kauai.gov>
Sent: Tuesday, July 16, 2019 12:57 PM
To: Ellen Ching <eching@kauai.gov>
Cc: Adam Roversi <aroversi@kauai.gov>
Subject: RE: Charter Amendment Proposals

Section 1.03B1. should be amended to provide that "if there are only two candidates for the office of the Mayor or Prosecuting Attorney, the candidate who receives the highest number of votes in the primary election shall be elected."

Section 9A.05A. should be amended to provide that "If the unexpired term is less than eighteen months..."

Mahalo.

Justin F. Kollar
Prosecuting Attorney

-----Original Message-----

From: Ellen Ching
Sent: Tuesday, July 16, 2019 12:50 PM
To: KCT Dept Head <DepartmentHeads@kauai.gov>
Cc: KCT CC <Secretaries@kauai.gov>; Adam Roversi <aroversi@kauai.gov>
Subject: Charter Amendment Proposals

Pls see the attached memo, regarding any charter amendments you would like the Charter Commission to consider. Should you have any questions, please feel free to contact me. I will be sending an calendar invite as a friendly reminder.

Mahalo,

Ellen Ching
Administrator

County of Kaua'i
Office of Boards and Commissions
4444 Rice Street, Suite 150
Lihue, HI. 96766
Phone: (808) 241-4922
Fax: (808) 241-5127
Email: eching@kauai.gov
Website: <https://www.kauai.gov/BoardsandCommissions>

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