SPECIAL MEETING NOTICE AND AGENDA  
Monday, January 10, 2022  
3:00 p.m. or shortly thereafter

Microsoft Teams Conferencing Information

Click on the link below or enter the url in your network browser to join on your computer or mobile app by VIDEO:
https://bit.ly/3qHXbpI

Or

Dial phone number and enter conference ID to call in and join by AUDIO:
Phone: +1 469-848-0234  United States, Dallas  
Phone Conference ID: 713 915 625#

This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by using the link above or calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

Oath of Office for mayoral re-appointees, Reid Kawane and Lori Koga serving second terms ending 12/31/24.

CALL TO ORDER

APPROVAL OF AGENDA

APPROVAL OF MINUTES
None

PUBLIC TESTIMONY

COMMUNICATION

BUSINESS
CRC 2022-01  Election of Chair, Vice Chair for Calendar Year 2022.

CRC 2022-02  Discussion and possible approval of the 2022 meeting calendar.
CRC 2020-17  Discussion and possible action on proposing a Charter amendment relating to Council Districting.

CRC 2022-03  Discussion and possible action regarding establishing and defining the scope of a Permitted Interaction Group (PIG). The purpose of the Permitted Interaction Group (PIG) would be to recommend a Charter amendment relating to Council Districting.

CRC 2022-04  Discussion and possible action on conducting a survey of the voters regarding Council Districting.

ANNOUNCEMENTS
Next Meeting: January 24, 2022

ADJOURNMENT

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

cc: Hugo Cabrera, Deputy County Attorney

PUBLIC COMMENTS and TESTIMONY

SPEAKER REGISTRATION

Prior to the Day of the Meeting: Persons wishing to testify are requested to register their name, phone number, and agenda item via email at asegregti@kauai.gov; or by calling 808-241-4917.

On the Day of the Meeting: Persons who have not registered to testify by the time the Commission meeting begins will be given the opportunity to speak on an item following oral testimonies of registered speakers.

Each speaker is limited to a three-minute presentation on each item.

WRITTEN TESTIMONY
Prior to the Day of the Meeting: Testimony may be emailed: asegreti@kauai.gov, or mailed: County of Kauai, Office of Boards and Commissions, Board of Ethics, 4444 Rice St., Ste. 300, Lihue, HI 96766.

SPECIAL ASSISTANCE
IF YOU NEED AN AUXILIARY AID/SERVICE OR OTHER ACCOMMODATION 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 KAUA'I
# CHARTER REVIEW COMMISSION
# 2022 MEETING SCHEDULE

<table>
<thead>
<tr>
<th>January</th>
<th>February</th>
<th>March</th>
</tr>
</thead>
<tbody>
<tr>
<td>Su M Tu W Th F Sa</td>
<td>Su Mo Tu We Th Fr Sa</td>
<td>Su Mo Tu We Th Fr Sa</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2 3 4 5 6 7 8</td>
<td>7 8 9 10 11 12 13</td>
<td>6 7 8 9 10 11 12</td>
</tr>
<tr>
<td>9 10 11 12 13 14 15</td>
<td>13 14 15 16 17 18 19</td>
<td>13 14 15 16 17 18 19</td>
</tr>
<tr>
<td>16 17 18 19 20 21 22</td>
<td>20 21 22 23 24 25 26</td>
<td>20 21 22 23 24 25 26</td>
</tr>
<tr>
<td>23 24 25 26 27 28 29</td>
<td>27 28</td>
<td>27 28</td>
</tr>
<tr>
<td>30 31</td>
<td></td>
<td>30 31</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>April</th>
<th>May</th>
<th>June</th>
</tr>
</thead>
<tbody>
<tr>
<td>Su M Tu W Th F Sa</td>
<td>Su M Tu W Th F Sa</td>
<td>Su M Tu W Th F Sa</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>1 2 3 4 5 6 7</td>
<td>1 2 3 4 5 6 7 8</td>
</tr>
<tr>
<td></td>
<td>3 4 5 6 7 8 9</td>
<td>8 9 10 11 12 13 14</td>
</tr>
<tr>
<td></td>
<td>10 11 12 13 14 15 16</td>
<td>15 16 17 18 19 20 21</td>
</tr>
<tr>
<td></td>
<td>17 18 19 20 21 22 23</td>
<td>22 23 24 25 26 27 28</td>
</tr>
<tr>
<td></td>
<td>24 25 26 27 28 29 30</td>
<td>29 30 31</td>
</tr>
<tr>
<td></td>
<td>31</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>July</th>
<th>August</th>
<th>September</th>
</tr>
</thead>
<tbody>
<tr>
<td>Su M Tu W Th F Sa</td>
<td>Su M Tu W Th F Sa</td>
<td>Su M Tu W Th F Sa</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>1 2 3 4 5 6 7 8 9 10</td>
<td>11 12 13 14 15 16 17</td>
</tr>
<tr>
<td></td>
<td>3 4 5 6 7 8 9</td>
<td>7 8 9 10 11 12 13</td>
</tr>
<tr>
<td></td>
<td>10 11 12 13 14 15 16</td>
<td>14 15 16 17 18 19 20</td>
</tr>
<tr>
<td></td>
<td>17 18 19 20 21 22 23</td>
<td>21 22 23 24 25 26 27</td>
</tr>
<tr>
<td></td>
<td>24 25 26 27 28 29 30</td>
<td>28 29 30 31</td>
</tr>
<tr>
<td></td>
<td>31</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>October</th>
<th>November</th>
<th>December</th>
</tr>
</thead>
<tbody>
<tr>
<td>Su M Tu W Th F Sa</td>
<td>Su M Tu W Th F Sa</td>
<td>Su M Tu W Th F Sa</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>1 2 3 4 5</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
</tr>
<tr>
<td></td>
<td>2 3 4 5 6 7 8</td>
<td>6 7 8 9 10 11 12</td>
</tr>
<tr>
<td></td>
<td>9 10 11 12 13 14 15</td>
<td>13 14 15 16 17 18 19</td>
</tr>
<tr>
<td></td>
<td>16 17 18 19 20 21 22</td>
<td>20 21 22 23 24 25 26</td>
</tr>
<tr>
<td></td>
<td>23 24 25 26 27 28 29</td>
<td>27 28 29 30</td>
</tr>
<tr>
<td></td>
<td>30 31</td>
<td></td>
</tr>
</tbody>
</table>

**HOLIDAYS:**
- Dec 31: New Year's Day
- Jan 17: Dr. Martin Luther King, Jr. Day
- Feb 21: Presidents' Day
- Mar 25: Prince Jonah Kūhiō Kalanianaole Day
- Apr 15: Good Friday
- May 30: Memorial Day
- Jun 10: King Kamehameha I Day
- Jul 4: Independence Day
- Jul 5: Presidents' Day
- Aug 19: Statehood Day
- Sep 5: Labor Day
- Sep 21: Labor Day
- Nov 8: Election Day
- Nov 11: Veterans' Day
- Nov 24: Thanksgiving Day
- Dec 26: Christmas Day
CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Ms. Segreti.

I was recently informed the CRC would be again be taking testimony today for CRC2020-17 regarding districting proposals for the county council, and that my testimony was requested.

I have carefully reviewed the minutes from the last CRC meeting (October 25 2021), with great interest. Excellent comments and discussion - particularly from Chair Kawane, Vice Chair Koga, Commissioners Kapali, Sandblom, TenBruggencate, and Administrator Ching.

After much reflection, I feel confident there _is_ a sound solution "3 x 2 +1" that satisfies the valid concerns raised re: efficiency, cost-control, effective regional representation, that can successfully foster a new generation of candidates to participate in the electoral process while maintaining the uniquely Kauauʻi tradition of island-wide voter engagement:

- **voter choice**: continue island-wide voting for _all_ candidates,
- **districts**: simply adopt 3 existing state-designated constitutionally valid, equal-population house districts _for voters_,
- **representation**: maintain 7 seats on council; the highest islandwide vote recipient being elected at-large, and then top 2 vote recipients - by each district - elected to fill in the other 6 seats.

How would this work in practice?

By adopting the constitutionally valid (and vetted!) equal-population districts the state has already provided, Kauaʻi has the excellent opportunity to leapfrog the expence and potential headaches of political gerymandering, and simply "plug & play."

Voters can continue to the Kauaʻi tradition of voting for (up to) a full council of candidates, but only the lone island-wide top vote getter would be elected at-large. Each of the top-2 vote-getters as determined by voters from the 3 seperate districts would be seated for a total of 7. This would require no change in total from present, no increase in # of salaries, and no increase in future pension expenses.

This balances the desire to have a council that is selected by the whole island, while ensuring equal and balanced representation from every corner of the island will not just sometimes, but _always be present_ when considering issues that come before the entire council.

Equally important, this arrangement will ensure that no one region of the island can ever `veto` or choose another district's representatives; each district shall _always_ choose their own
Vice Chair Koga asks if candidates moving would effect their ability to serve? No.

By maintaining the existing island _residency_ requirement for all candidates, but only requiring a _district_ residency requirement for voters in each district, voters in each district will be free to choose their representatives from the entire island-wide slate of candidates. But each district will always control their own representation, unlike other types of districting rules, such as in Maui county.

I believe Commissioner Kapali is correct in noting that election by district will foster a wider group, and encourage and promote a new generation to engage in representational politics by greatly reducing campaigning expenses.

Commissioner TenBrugencate is also correct when he states districting has come closer and closer to passing each time — failing in 2006 by only 161 votes _less than 1% of the vote_ (9,396 44.3% NO 9,557 45.1%). In the decades since that time, all the other island counties have created some form of districting.

The time for districting for Kauaʻi County Council has come — it is simply up to this CRC to make a choice about which form of districting to bring before the voters.

Many forms of districting exist — please choose one for Kauaʻi & Niʻihau that has:

- minimal expense,
- enhances democratic engagement,
- preserves Kauaʻi voter tradition, and
- ensures that every election produces a Kauaʻi Council that equally and fairly represents the populations of Kauaʻi & Niʻihau.

I believe this "3 x 2 +1" Districting Proposal does exactly that.

Thank you so much for taking the time to consider my testimony, and your broader service to our island communities.

warm regards,
Jonathan Jay
--

warm regards,
Jonathan Jay

JJKauaʻi Design
808.212.7686
jjkauai.com
Ellen,

Please see below from Councilmember Cowden. If there is an applicable agenda item, Councilmember Cowden welcomes the opportunity to provide testimony.

Thanks,
Scott

Felicia Cowden
CRC 2020-17
Councilmember, Kaua‘i County Council
Public Safety & Human Services Committee Chair
Public Works & Veterans Services Committee Vice Chair
4396 Rice Street, Suite 209
Līhu‘e, Hawai‘i 96766
Cellular: (808) 652-4363
Telephone: (808) 241-4092
Facsimile: (808) 241-6349
E-mail: fcowden@kauai.gov
ARTICLE I
THE COUNTY AND ITS GOVERNMENT

Section 1.03. County Elections

A. Nonpartisan elections. County elections shall be conducted in accordance with the state election laws insofar as applicable, but all elective county officers shall be elected by nonpartisan elections.

B. Offices of the mayor and prosecuting attorney.

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

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

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

C. Office of [at-large] councilmembers.

1. For [at-large] council offices, [two] up to six candidates for each vacant [at-large] council office receiving the highest number of votes in the primary election within each council district shall be placed on the ballot for the general election.

2. At the general election, the three candidates receiving the highest number of votes [for each vacant at-large council office] within each council district shall be elected.

3. Tie votes. In the event of a tie vote for the last remaining [at-large] council office within each council district in the primary election, the candidates receiving the same number of votes shall be placed on the ballot for the general election.

In the event of a tie vote for the last remaining [at-large] council office within each council district in the general election, the winner shall be determined by a method of chance as determined by the county clerk.
ARTICLE III
COUNTY
COUNCIL

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

Section 3.02. Composition. There shall be a council of nine members elected at-large by the qualified voters of their respective council district, with three members elected from each of three council districts. Council districts shall correspond with Hawai‘i state representative districts as apportioned under Article IV of the Hawaii Constitution.

Section 3.03. Terms. The terms of office of councilmembers shall be for two years beginning at twelve o’clock meridian on the first working day of December following their election. No person shall be elected to the office of councilmember for more than four consecutive two year terms. (Amended 1980, 1984, 2006)

Section 3.04. Qualifications.

A. To be eligible for the council, a person must be a citizen of the United States and must have been a duly qualified elector of their district for at least two years immediately preceding such person’s election or appointment.

B. Any councilmember who removes said councilmember’s residence from the county or is convicted of a felony shall immediately forfeit the office.

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

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

Section 3.06 Compensation. The salary of each councilmember shall be established in accordance with the provisions of article XXIX of this charter. (Amended 1988, 2006)
Section 3.07. Organization of Council; Officers; Rules; Employees.

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

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

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

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

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

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

Section 3.08. Mayor May Appear Before Council. The mayor may propose in writing any motion, resolution, or ordinance, or amendments thereto, but shall have no right to vote thereon.

Section 3.09. Eminent Domain. The council shall by resolution determine and declare the necessity of taking property for public purposes, describing the property and stating the uses to which it shall be devoted.
Proposed Charter Amendment Relating to Council Districts

**Section 3.10. Annual Budget and Capital Program.** The council shall enact an annual budget ordinance, which shall include both the operational and capital expenditures for the fiscal year and the method of financing same. The council shall provide sufficient revenues to assure a balanced budget.

**Section 3.11. Adoption of Pay Plan.** The council by ordinance shall appropriate the salaries of all officers and employees who are exempt from civil service in accordance with the provisions of section 7.05E and article XXIX of this charter. All other officers and employees shall be classified and paid in accordance with law. (Amended 1984, 1988, 2006)

**Section 3.12. Audit.**

A. Financial audit. At least once every two years and at any other time as may be deemed necessary, the council shall cause an independent audit of all county funds and accounts to be made by a certified public accountant or firm of certified public accountants. The scope of the audit shall be in accordance with the terms of a written contract to be signed by the chair which shall provide for the completion of the audit within a reasonable time. If the state makes such an audit, the council may accept it as satisfying the requirements of this section. The audit shall be a matter of public record.

B. Performance audit. To ensure and determine whether government services are being efficiently, effectively, and economically delivered, the council may at any time provide for a performance audit of any or all of the offices, agencies, departments, programs, and operations for which the county is responsible. The council may exercise its authority to conduct performance audits through the hiring of a qualified in-house auditor, through the hiring of a qualified contract auditor, or both. The scope of the audit shall be in accordance with the terms of an assignment referred to the office of the county clerk by the county council or a written contract to be approved by the council and signed by the presiding officer of the council, but may include the following activities:

1. Examination and testing of county offices’, agencies’, programs’, and departments’ implementation processes to determine whether the laws, policies, and programs of the county are being carried out in the most effective, efficient, and economical manner.

2. Examination and testing of the internal control systems of offices, agencies, programs, operations, and departments to ensure that such systems are properly designed to safeguard public assets against loss from waste, fraud, error, to promote efficient operations, and to encourage adherence to prescribed management policies.

Said assignment or contract shall encourage recommendations for changes in the organization, management, and processes which will produce greater efficiency and effectiveness in meeting the objectives of the programs or operations carried out by
Proposed Charter Amendment Relating to Council Districts

the respective county agencies, departments, offices, programs, and operations and shall provide for the completion of the audit within one calendar year. A copy of the audit report shall be filed with the county clerk and shall be public record. (Amended 2000)

Section 3.13. Creation of General Debt.

A. The council by the affirmative vote of at least [five] six members may authorize the issuance of general obligation bonds in accordance with the Constitution and laws of the State of Hawai‘i.

B. Each bond authorization shall specify the purpose for which moneys are to be borrowed and the maximum amount of bonds to be issued for that purpose.

C. Notwithstanding any limitation contained in this charter, the council may accept and receive participating or nonparticipating federal and state loans for public improvement projects or other purposes, the aggregate of which, together with any bonded indebtedness outstanding, shall not at any time exceed the total bonded indebtedness authorized by the Constitution of the State of Hawai‘i.

D. The council may provide for the refunding of general obligation bonds.

Section 3.14. Creation of Special Assessment Debt. The council may authorize the issuance of improvement bonds to finance assessable public improvements in the manner provided by law.

Section 3.15. Revenue Bond Indebtedness. The council may authorize the issuance of revenue bonds for the purpose of initiating, constructing, acquiring, extending, replacing, or otherwise improving any revenue-producing facility as provided by law.

Section 3.16. Temporary Borrowing.

A. The council may borrow money in any fiscal year in anticipation of revenues to be derived from taxes for that year, and for any of the purposes to which the revenues are appropriated. No such borrowing shall be in excess of 25 percent of the amount of the uncollected taxes of that year.

B. When any warrants are presented to the county for payment, and the same are not paid for lack of funds, the director of finance shall issue a warrant note, equal in amount to the face value of the warrant or warrants so presented for payment. The warrant note shall be in a form and shall be due at a date prescribed by the director of finance. It shall bear interest at the lowest obtainable rate. The notes shall be a first charge on the moneys of any fund against which the warrants are issued.

C. The council upon recommendation of the mayor may authorize the director of finance to obtain temporary loans from the state.
Section 3.17. Investigation. The council or any authorized committee thereof shall have the power to conduct investigations of the operation of any agency or function of the county and any subject upon which the council may legislate. In investigations, the presiding officer shall have the right to administer oaths and in the name of the council to subpoena witnesses and compel the production of books and papers pertinent thereto. If any person subpoenaed as a witness or to produce any books or papers called for by the process of the council or committee shall fail or refuse to respond thereto, the circuit court upon request of the council shall have power to compel obedience to any process of the council and require such witness to answer questions put to the witness as aforesaid, and to punish, as a contempt of the court, any refusal to comply therewith without good cause shown therefor.

False swearing by any witness shall constitute perjury and be punished as such, and whenever the council is satisfied that a witness has sworn falsely in any hearing or investigation, it shall report same to the county attorney for prosecution. In any investigation which concerns the alleged gross misconduct, or alleged criminal action on the part of any individual, such individual shall have the right to be represented by counsel, the right of reasonable cross-examination of witnesses, and the right to process of the council to compel the attendance of witnesses in the individual’s behalf.

Section 3.18. Restrictions on County Council and Councilmembers. The council and its members shall not interfere with the administrative processes delegated to the mayor.

Except for the purpose of investigative inquiries under section 3.17, the council or its members, in dealing with county employees, or with county officers who are subjected to the direction and supervision of the mayor, shall deal solely through the mayor, and neither the council nor its members shall give orders to any such employee or officer either publicly or privately. Any willful violation of the provisions of this section by a member of the council shall be sufficient grounds for an action for the member’s removal from office.
Email received 6/29/2020:

Chair Sandblom and Commissioners,

I appreciate the opportunity to offer testimony on CRC 2020-17, regarding the Charter amendment relating to Council Districting that is being proposed.

District representation has been in effect for thirty (30) years with respect to every single elective office within the State of Hawaii except for the Kauai County Council. It has been in effect for much longer regarding every Federal elective office (except President/Vice President). Why do you think that is? Does Kauai know something the rest of the State and Federal governments do not know, or have the rest of the State and Federal governments merely come to realize that “district” representation works better than “at-large” representation? I strongly suspect the latter.

Only three of the many proposals for Council Districting on Kauai have been put before the voters on the general election ballot, and all have been defeated (partially due to opposition from the Council incumbents at the time, all of whom had been elected at-large). 39% voted for the 1982 proposal, 47% for the 1996 proposal, and 49.6% for the 2006 proposal (falling short by only 161 votes), indicating that the number of voters favoring Council Districting is increasing to the point where such an amendment will likely pass the next time it appears on the ballot. Several other proposals were introduced during the intervening years, however, neither the Charter Review Commission nor the County Council voted to include any of them on the general election ballot, leading us to the current Council Districting proposal.

Every other County Council in the State is made up of nine (9) councilmembers elected from nine (9) separate districts within their County. The current proposal also envisions nine (9) councilmembers, however, these would be elected from only three (3) districts, with three of them from each district, thereby defeating the purpose of having single-member districts in the first place. (Whenever a district is allowed to have more than a single member, that election effectively changes from “district” to “at-large.”) Instead, this proposal would effectively hold three “at-large” elections within each of the three Council Districts rather than having bonafide single-member “district” elections for all nine (9) districts, as has been done on Oahu, Maui and the Big Island for the past thirty (30) years. As a result, the customary pattern on Kauai whereby most previous Councilmembers resided in those areas of Kauai with the largest densities would likely continue, meaning that all three councilmembers elected from the Northeast district would likely reside in the Kapaa area, while those elected from the Wailua-Lihue district would likely reside in the Lihue area, and those elected from the Westside district would likely reside in the Kalaheo area. (See attached worksheet containing various districting scenarios based upon 2010 census data.)

Furthermore, previous Council Districting proposals considered by this were comprehensively researched and studied by a committee prior to becoming eligible for a vote by the full Commission (e.g, 1990, 1996, 2016 & 2014). I am unaware, however, of any such committee research having been performed regarding this proposal prior to its becoming eligible for a vote by this full Commission. For these reasons, I must oppose this proposal.
Rather than proposing the nine (9) single-member districts used by the rest of the State as an alternative, however, I instead propose seven (7) single-member districts. I sincerely believe most Kauai residents would probably agree that Kauai “naturally” falls within seven (7) geographical areas, all of which distinguish themselves in such a way that they would likely prefer someone from their own area/district to represent them on the County Council, since they would likely share similar experiences and outlooks. These seven distinct districts are the following:

1. Haena-Hanalei-Princeville-Kilauea-Moloaa-Anahola
2. Kapaa-Kealia
3. Wailua Houselots-Wailua Homesteads
4. Hanamaulu-Lihue-Puhi
5. Koloa-Poipu-Kukuiula
6. Kalaheo-Omao-Lawai
7. Eleele-Hanapepe-Kaumakani-Waimea-Kekaha-Niihau

Any reapportionment commission, which would be required to implement any number of Council districts other than three (3), should be able to produce acceptable district boundaries according to the census tract data provided by the 2020 Census. I believe that any additional expense required in order to implement a 7-district Council election would be well worth the cost, by creating districts that clearly represent those issues concerning each community. As a result, at least one Councilmember would live near the area concerning any issue coming before the Council, so he/she would then likely be familiar enough with that issue to better explain it to the full Council.

Furthermore, having smaller Council districts would make it easier and cheaper for new candidates to campaign for a Council seat, likely resulting in more candidates.

Accordingly, I ask that you please reject the original proposal for three (3) districts of three (3) councilmembers each, and instead consider my proposal for seven (7) single-member districts.

Sincerely,

Bert Lyon
### 2010 Census Data

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>401</td>
<td>Haena-Hanalei</td>
<td>1,344</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>401</td>
<td>Princeville-Kilauea</td>
<td>6,484</td>
<td></td>
<td></td>
<td>7,828</td>
<td>7,828</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9400</td>
<td>Anahola</td>
<td>3,715</td>
<td></td>
<td>11,543</td>
<td>11,543</td>
<td>3,715</td>
<td>10,199</td>
<td>3,715</td>
</tr>
<tr>
<td>403</td>
<td>Kapaa</td>
<td>8,385</td>
<td>19,928</td>
<td>19,928</td>
<td>8,385</td>
<td>8,385</td>
<td>8,385</td>
<td></td>
</tr>
<tr>
<td>402</td>
<td>Wailua House lots</td>
<td>5,047</td>
<td></td>
<td></td>
<td>13,432</td>
<td>13,432</td>
<td></td>
<td></td>
</tr>
<tr>
<td>402.1</td>
<td>Wailua Homesteads</td>
<td>3,845</td>
<td></td>
<td></td>
<td>8,892</td>
<td>8,892</td>
<td></td>
<td></td>
</tr>
<tr>
<td>404</td>
<td>Puhi-Hanamaulu</td>
<td>8,740</td>
<td>17,632</td>
<td>12,585</td>
<td>8,740</td>
<td>8,740</td>
<td>8,740</td>
<td></td>
</tr>
<tr>
<td>405</td>
<td>Lihue</td>
<td>5,943</td>
<td>23,575</td>
<td></td>
<td>8,487</td>
<td>8,487</td>
<td>8,487</td>
<td></td>
</tr>
<tr>
<td>406</td>
<td>Koloa-Poipu</td>
<td>2,544</td>
<td></td>
<td></td>
<td>11,626</td>
<td>11,626</td>
<td>3,139</td>
<td>3,139</td>
</tr>
<tr>
<td>406</td>
<td>Omao-Kukuiula</td>
<td>3,139</td>
<td></td>
<td></td>
<td>11,626</td>
<td>11,626</td>
<td>3,139</td>
<td>3,139</td>
</tr>
<tr>
<td>407</td>
<td>Eleele-Kalaheo</td>
<td>8,403</td>
<td></td>
<td></td>
<td>8,403</td>
<td>8,403</td>
<td>8,403</td>
<td></td>
</tr>
<tr>
<td>408</td>
<td>Kaumakanani-Hanapepe</td>
<td>3,771</td>
<td></td>
<td></td>
<td>8,403</td>
<td>8,403</td>
<td>8,403</td>
<td></td>
</tr>
<tr>
<td>409</td>
<td>Kekaha-Waimea</td>
<td>5,561</td>
<td></td>
<td></td>
<td>8,403</td>
<td>8,403</td>
<td>8,403</td>
<td></td>
</tr>
<tr>
<td>412</td>
<td>Nihoa</td>
<td>170</td>
<td>23,588</td>
<td>17,905</td>
<td>9,502</td>
<td>9,502</td>
<td>9,502</td>
<td></td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
<td><strong>67,091</strong></td>
<td><strong>67,091</strong></td>
<td><strong>67,091</strong></td>
<td><strong>67,091</strong></td>
<td><strong>67,091</strong></td>
<td><strong>120,317</strong></td>
<td><strong>836,231</strong></td>
</tr>
</tbody>
</table>

| Average district size | 22,364 | 16,773 | **13,418** | **11,182** | 9,584 | 9,584 | 7,455 | **13,369** | **11,167** | 92,915 |

| Max variance - over | 5% | 7% | 33% | 20% | ? | 6% | 19% |
| Max variance - under | -11% | -31% | -14% | -25% | -18% | -13% | -58% |
June 21, 2020

To: Marissa Sandblom, Chair
    County of Kauai Charter Review Commission

From: Norma Doctor Sparks, Esq.  

Re: Discussion and Possible Action on Proposed Charter Amendment Relating to Council Districting

Thank you for the opportunity to present my testimony in support of increasing the number of Kauai Council Members from seven to nine members.

A strong connection between County Council Members and their defined constituents is a good thing for democracy. It is good for County Council Members to listen closely to opinions of their constituents. It is good for constituents to inform their County Council Members about what they want and expect from government. And it is a good thing when County Council Members effectively communicate the intricacies of their (and the government’s) actions to the people in their districts. To explain to constituents what he or she has done, and why, a county council member must 1) be accessible to constituents, 2) actively seek out constituent needs and opinions, and 3) educate constituents about issues and his or her legislative fairness.

Yet, under the present Charter, each individual County Council Member is given a special charge to represent all of the people on Kauai and their myriad interests. It is extremely difficult for any one County Council Member to represent all of Kauai and more importantly, to maintain contact and interaction with everyone on Kauai.

For the same reasons why the Hawaii Constitution scheduled three representatives for three Hawaii state representative districts on Kauai, the County Council should have nine members. With three members elected from each of three council districts, corresponding with Hawaii state representative districts as apportioned under the Hawaii Constitution, the people of Kauai will have stronger representation that will integrate the issues of the districts at the County and State levels.

I am available to answer any questions.
<table>
<thead>
<tr>
<th>Election Year</th>
<th>Proposed Charter Amendment</th>
<th>Proposed by Council</th>
<th>Proposed by Charter Comm</th>
<th>Proposed by Petition</th>
<th>Passed by Electorate</th>
<th>Rejected by Electorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1982</td>
<td>Shall Council members be elected by districts, with one member residing in and elected from each of three districts which shall be established by a reapportionment committee, and four members elected at large, and shall 1983 and every tenth year thereafter be a reapportionment year?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1990</td>
<td>Effective 1992, shall Council members be elected by districts and shall 1991 and every tenth year thereafter be a reapportionment year?</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>Effective 1998 shall Council members be elected by districts, with one member residing and elected from each of 5 districts, which shall be established by an apportionment commission to be appointed in 1997, and 2 members elected at-large, and shall 2001 and every tenth year thereafter be apportionment year?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>Effective 2008, shall three of the seven council members be elected by districts, with one member residing in and elected from each of three districts that shall be established by an apportionment commission to be appointed in 2007, and four of the seven council members elected at-large, and shall 2011 and every tenth year thereafter be a reapportionment year?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

1982-# of registered voters = 22,563
# of votes cast = 18,222

1990-5 single member districts
Yes 3528     16.7%
No 2282      10.7%

1996
Yes 8456   38.8%
No 3729   17.1%
Blank 3729  24.8%
Other 6 0.0%

2006
Yes 9396  44.3%
No 9396 44.3%
Blank 2247 1.6%
Other 12 0.1%
Kauai County Charter Review Commission

Special Committee on County Districting

Report to the commission, Jan. 25, 2016

Members: Commissioners Allan Parachini (chair); Mia Ako; Patrick Stack

The committee was charged with identifying what districting proposal, if any, should be accepted by the Charter Review Commission and placed on the November, 2016, general election ballot.

The committee reviewed procedures followed by previous committees of the commission that have considered the districting question. The committee felt that public meetings, while useful, reached fewer than 90 members of the public when they have been held in the past. Those choosing to attend those meetings may have had agendas for districting that did, or did not, reflect those of the broad community. Before recommending any districting scheme, the committee wanted to be reasonably certain that Kauai County residents wanted to enact such a system and, if so, which particular design they would favor.

The committee opted to alter the approach for this review and to explore public opinion survey techniques that could be easily and quickly accessed by the public and that would produce a reliable cross section of Kauai County residents' views on whether County Council members should run by district, at large or a combination of both. At the present time, all seven County Council members are elected and serve on an at large basis.

Between Friday, Dec. 4, 2015, and Wednesday, Dec. 30, 2015, the committee, with the support of the County Information Technology Department, conducted a survey using via software on SurveyMonkey.com. This was a poll of Kauai County residents to assess their attitudes toward various options for instituting a district-based election system for the County Council. SurveyMonkey.com software is routinely used by Kauai County and hundreds—if not thousands—of other government agencies, media organizations and other concerns and enjoys a favorable reputation in the polling industry.

The survey was programmed to reject more than one response from any individual IP address. No member of the committee saw any survey response data while the poll was still online.

The SurveyMonkey software package includes a calculator that permits computation of margins of error. Calculating margin of error based on Kauai County's population (approximately 69,000) and the number of the county's registered voters (approximately 42,000), the calculator result was the same for total population and registered voters. At a confidence level of 95 percent, the margin of error is plus-or-minus five percent. At a confidence level of 90 percent, the margin of error is plus-or-minus four percent.
The margin of error quantifies the degree of accuracy that the survey results should provide, so a five percent margin of error means that the percentage responding a certain way to a question might vary by as much as five percentage points higher or lower than the data themselves show. This is a common attribute of all legitimate opinion survey methodologies.

The survey results were:

**Question 1: Would you be in favor of a County Council that is composed of:**

<table>
<thead>
<tr>
<th>Option</th>
<th>Percentage</th>
<th>Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 members, each with a district?</td>
<td>23.3%</td>
<td>108</td>
</tr>
<tr>
<td>3 districts, 4 at large?</td>
<td>7.8%</td>
<td>36</td>
</tr>
<tr>
<td>4 districts, 3 at large?</td>
<td>15.3%</td>
<td>71</td>
</tr>
<tr>
<td>5 districts, 2 at large?</td>
<td>24.2%</td>
<td>112</td>
</tr>
<tr>
<td>No change from current at large system?</td>
<td>29.4%</td>
<td>136</td>
</tr>
</tbody>
</table>

**Question 2: If the County were to adopt a form of County Council districting, should voters be able to:**

- Vote for all 7 candidates, regardless of voter’s residency? 34 percent 158 votes
- Vote only for at large members and one member representing voter’s district? 65 percent 305 votes

**Question 3: Should district County Council candidates be required to live in the districts they represent?:**

<table>
<thead>
<tr>
<th>Option</th>
<th>Percentage</th>
<th>Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Candidate must be required to live in district</td>
<td>90%</td>
<td>419</td>
</tr>
<tr>
<td>Candidate may live anywhere in the county</td>
<td>9%</td>
<td>44</td>
</tr>
</tbody>
</table>

**Question 4: Are you registered—or eligible to register—to vote in Kauai County?**

<table>
<thead>
<tr>
<th>Option</th>
<th>Percentage</th>
<th>Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered voter or eligible to register in Kauai County—YES</td>
<td>96%</td>
<td>448</td>
</tr>
<tr>
<td>Registered voter or eligible to register in Kauai County—NO</td>
<td>3%</td>
<td>15</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

While participants supporting no change in the existing at large election system for the County Council represented the largest single bloc in this poll, the data also show—perhaps more significantly—that slightly more than 70 percent of participants want some form of district election. Support for five districts and two at large seats was only slightly higher than for having all seven County Council members be elected by district. It is important to note that no change; 5-and-2 and 7 districts are all clustered within the poll’s calculated margin of error.
The committee is proposing that the Charter Review Commission choose between two courses of action:

1) The Commission could vote onto the ballot a proposed Charter Amendment changing the County Council electoral system so the council is made up of five members representing districts and two serving at large. District members would be required to live in the district they represent and would be chosen only by voters in that district.

2) The Commission could decline to propose any Charter Amendment and leave the status quo in place.

The committee is mindful that the 5-and-2 option has been on the ballot before, in 1996, and failed. Voters have also been asked on two different occasions—in 1982 and 2006—if they wished to adopt a system in which three County Council members would be elected by district and four at large. Both of those proposed amendments also failed. The survey results may shed light on these previous ballot failures, since voters may have been confused by the complexity of the Charter Amendment they were asked to vote on, they may not have felt they had enough information to make an intelligent voter decision, or they might have favored districting but not the particular scheme proposed.

If the Commission moves forward with placing a districting Charter Amendment on the ballot in 2016, an organized effort to explain the proposal to the public may be in order. The committee did not select the seven district option for two reasons. First, while no change, 5-and-2 and 7 districts are all within the poll’s margin of error, the 7 district plan had the least support—albeit by only a small number of votes. Second, and perhaps more important, the committee was mindful of the fact that the County Council may itself place a county manager Charter Amendment on the ballot that would substantially alter the powers of the Mayor and could perhaps make the mayor the presiding officer of the County Council. While the committee takes no position on whether this county manager amendment is in the county’s best interests, it seems very unlikely that the presiding officer (mayor) of the County Council could serve credibly on anything other than an at large basis—thus making it impossible to adopt a seven district system.

Accordingly, the Special Committee on County Districting recommends to the Charter Review Commission that it consider and choose between taking no action to institute a districting system or to approve, for inclusion on the 2016 ballot, a Charter Amendment to institute a system in which five County Council members would represent districts and two would serve at large, effective in 2018. An apportionment commission would have to be created to draw district lines and this process is provided in the draft Charter Amendment we present to you. Under a new district election system, those members representing districts would be required to reside in those districts. Only voters living within a particular district would be able to vote for the County Council member who would represent that district. All voters would vote for two at large members.

If the commission chooses to pursue placing a district system on the 2016 ballot, the commission’s February meeting should include a public hearing at which written and in-person testimony could be received from any member of the community.
Section 3.02. Composition. There shall be a council of seven members [elected at-large]. Two members shall be elected at-large by all registered voters in the county. Each of the other five members shall reside in and shall be elected from a separate council district by registered voters residing in that separate council district.

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

Section 3.04. Qualifications.

A. To be eligible for the council, a person must be a citizen of the United States and must have been a [duly qualified elector] registered voter of the county for at least two years immediately preceding his or her filing candidacy papers for election or appointment. In addition, those candidates for the council who intend to represent one of the five council districts must state which district they intend to represent and that they have been a registered voter of that district for the preceding ninety days. Should a council member move from, or be removed from, any of the seven council positions from which that person was elected, any replacement appointee must meet all requirements of a candidate for that position.

B. Any [councilman] council member who removes his or her residence from the county or district from which elected, or is convicted of a felony, shall immediately forfeit his or her office.

Section 3.19. District Election and Reapportionment.

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

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

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

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

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

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

(Deleted material is bracketed; new material is underlined)

2 Ballot Question-

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