



# CHARTER REVIEW COMMISSION

---

**LORI KOGA**, CHAIR  
**JAN TENBRUGGENCATE**, VICE CHAIR

**BRONSON BAUTISTA**, COMMISSIONER  
**VIRGINIA KAPALI**, COMMISSIONER  
**REID KAWANE**, COMMISSIONER  
**MARISSA SANDBLOM**, COMMISSIONER

## REGULAR MONTHLY MEETING NOTICE AND AGENDA

Monday, January 24, 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/33KtQml>

Or

Dial phone number and enter conference ID to call in and join by AUDIO:

Phone: [+1 469-848-0234](tel:+14698480234) United States, Dallas

Phone Conference ID:383 298 522#

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.

### CALL TO ORDER

### APPROVAL OF AGENDA

### APPROVAL OF MINUTES

Open Session Minutes of December 20, 2021

Special Meeting Minutes of January 10, 2022

### PUBLIC TESTIMONY

### COMMUNICATION

### BUSINESS

CRC 2020-17

Discussion and possible action on proposing a Charter amendment relating to Council Districting.

CRC 2021-04

Discussion and possible action on Charter Initiatives of interest.

**ANNOUNCEMENTS**

Next Meeting: February 28,2022

**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 [asegreti@kauai.gov](mailto:asegreti@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](mailto: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](mailto: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:	<b>CHARTER REVIEW COMMISSION</b>	Meeting Date	<b>December 20, 2021</b>
Location	Teleconference	Start of Meeting: 3:04 p.m.	End of Meeting: 4:45 p.m.
Present	Chair Reid Kawane, Vice Chair Lori Koga. Commissioners: Bronson Bautista, Virginia Kapali joined at 3:06pm, Jan TenBruggencate. Also: Hugo Cabrera, Deputy County Attorney. Boards & Commissions Office Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti. Testifiers: Bert Lyon, Jonathan Jay, Jade Tanigawa, Lyndon Y.		
Excused	Marissa Sandblom		
Absent			
<b>SUBJECT</b>	<b>DISCUSSION</b>	<b>ACTION</b>	
<b>Call To Order</b>		Chair Reid Kawane, called the meeting to order at 3:04 p.m.	
<b>Roll Call</b>		Roll Call: Commissioner Bautista-present Commissioner Kapali-dropped from teleconference at 3:06pm Commissioner Sandblom-excused Commissioner TenBruggencate-here Vice Chair Koga-present Chair Kawane -here Quorum: 4 commissioners present	
<b>Agenda</b>	Commissioner TenBruggencate stated that under CRC 2021-04 he hopes that Commission will consider some previous amendments but no change to agenda.	Commissioner TenBruggencate moved to approve the agenda. Vice Chair Koga seconded. 4 Ayes, 0 Nays Motion carried 4:0	

SUBJECT	DISCUSSION	ACTION
<b>Minutes</b>	Open Session Minutes of November 22, 2021	Commissioner TenBruggencate moved to approve the Minutes of November 22, 2021; Vice Chair Koga seconded.  4 Ayes, 0 Nays Motion carried 4:0.
<b>Public Testimony</b>	<u>Testimony received from Councilmember Felicia Cowden on December 3, 2021, regarding CRC 2020-17.</u>	Commissioner TenBruggencate moved to receive. Vice Chair Koga seconded.  4 Ayes, 0 Nays Motion carried 4:0.
<b>Communication</b>	<u>None</u>	
<b>Business</b>	<u>CRC 2020-17 Discussion and possible action on meetings regarding proposed Charter amendment relating to Council Districting.</u>  Bert Lyon testified on the 2016 report (on file) and the survey that was done. He stated that districting was favored by 71% to have districting in some form, 29% against. He went on to break down most popular proposals from question one of the surveys, on question two he noted that people voted that they were wanting to vote per district only, and on question three majority favored candidate must live in district, and that the two most favored were 5 district and 2 at large or 7 districts. He stated that the proposal didn't go through that year because of another proposal on the ballot for a County Manager and if that had past then a district election wouldn't work.	

SUBJECT	DISCUSSION	ACTION
	<p style="text-align: center;"><i>Commissioner Kapali joined at 3:14pm</i></p> <p>Commissioner TenBruggencate responded to Mr. Lyon’s comments that he recollected that the last time districting was on the ballot in 2006 when it was 3 district and 4 at-large and it got nearly 50% of the vote. He further stated that it’s problematic to determine which proposal is most likely to gain a majority and makes the most sense for our community. He stated that many speakers have expressed that they want to vote for most of the members of the Council so they may speak to more than one councilmember. He asked if Mr. Lyon’s proposal could address that.</p> <p>Mr. Lyon responded that he’s married to seven districts due to natural division of island, referring to Planning districts which is 6 because of lumping Kapaa and Wailua together. He has spoken to representatives and the have been receptive to his proposal. He also pointed out that vote in 2006, Commissioner TenBruggencate mentioned was also voted on in 1982 and 1990, but that the survey was 10 years after, and opinions may have changed.</p> <p>Commissioner TenBruggencate clarified that Mr. Lyon’s proposal that one only votes within their district.</p> <p>Mr. Lyon responded that if Commission is not ready to move forward with full districting he would not be opposed to a similar situation as Maui County as a bridge to have districts set up, but not as a permanent thing.</p> <p>Testifier Jonathan Jay stated that he wants to encourage the Commission to move forward with some strong regional representation, that they have options that they may adopt. In regard to Maui, he does not believe that anyone from outside of a district should be able to vote for a representative in another district. He is not for the 3x2x1 proposal and thinks that Norma Doctor Sparks and Mr. Lyon’s proposals are fine ways to go.</p> <p>Commissioner TenBruggencate stated that everyone online is against the Maui option.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Mr. Lyon stated that the 7 district and Ms. Sparks 3 members per district are good options.</p> <p>Chair Kawane stated that the Commission also needs to consider if Elections Division can handle any of the changes.</p> <p>Mr. Jay stated that by adopting three district option would be easiest.</p> <p>Commissioner Kapali agrees with both testifiers with moving forward with districting. She asked for clarification on whether if potential candidates need to be a resident of the district.</p> <p>Mr. Jay stated that it's up to Commission, and that if all agree that want to only allow district residents to vote for their representative. If want to also choose to have a residency for candidate, it would give a stronger regional representation.</p> <p>Commissioner Kapali stated that she believes the candidate should reside in the district. She further stated that she's not sure about residents no longer having seven votes which they are used to.</p> <p>Mr. Jay would support candidate residency.</p> <p>Mr. Lyon stated that his proposal and Dr. Sparks proposal both have residency requirement for candidate. He also restated that in the 2016 report the number of people that wanted to vote for all 7 candidates was 34%, whereas 65% wanted to vote for candidate from their district.</p> <p>Commissioner TenBruggencate stated that of the five proposals, four allow for everyone to vote on most of the members. Question is whether this is a critical issue. He and Mr. Lyon discussed this issue.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>County Clerk Jade Tanigawa stated that she and Mr. Yoshioka, Elections Division, are available for questions.</p> <p>County Clerk Tanigawa stated that if Commissioners wanted to incorporate districting into next election it would be difficult. She is aware it's not possible because question would need to be on the ballot, but that would need to be clarified with the public. There would also be concern on which would be chosen regarding drawing of lines.</p> <p>Commissioner TenBruggencate stated that anything voted on in 2022 election would not be in place till the 2024 election.</p> <p>Mr. Yoshioka added that in regard to establishing district lines can be a drawn out process. Timing is also critical as to how the lines are developed. His counterparts in other Counties form commissions and piggyback on the data developed through the State reappropriation commission. He understands the County of Hawaii entered into a contract with a GIS company to assist, approximately costing \$30,000, involving public hearings, etc. Any plan could be subject to revisions. It could be time consuming.</p> <p>Commissioner Kapali asked if with State Legislative Districts, 14, 15, 16, lines are drawn according to apportionment, so if follow those lines, they would just be implementing how it's voted, is that correct.</p> <p>Mr. Yoshioka stated that if we have 3 council members elected by districts and districts aligned with the state Rep lines, then we would not be required to develop our own lines, but that would entail four members elected at large or another option would be to have multi member districts following the state Rep lines. But it would sort of be odd because you have 7 council members 3 Rep districts? How do you determine? How many members in each group district?</p> <p>Commissioner TenBruggencate replied that there's another wrinkle and that is we have had canoe districts in the past at one time the North Shore was part of a district that</p>	

SUBJECT	DISCUSSION	ACTION
	<p>included part of Oahu as well, and another time, the North Shore was part of a district that included part of Maui. Currently we have 3 districts on Kaua’I, but if the state lines changed and suddenly one of those districts wasn't all Kaua’i, we'd have to draw our own lines.</p> <p>Mr. Yoshioka confirmed.</p> <p>The Commission discussed the state of the island when Canoe districts existed, how a change in population made it possible to have full districts based on census.</p> <p>Mr. Lyon clarified that he believes Kaua’i had three quarters of a Senate seat and about one and a quarter House seats if you add everything up. It satisfied the one man vote if they gave a little more power to the Senate seat and a little less to the House seat and that's how they came up with the one and one, and that pass constitutional muster and that's that's how it was changed from canoe district to just a single member districts with one senator and three House members.</p> <p>Commissioner TenBruggencate stated that they need to assume that any districting that is employed should include language on reapportionment, in case there are changes in State apportionments.</p> <p>Mr. Lyon stated that the seven-district proposal would be the more attractive.</p> <p>Commissioner Kapali stated that she thinks that setting up a committee to research may be needed. Perhaps a survey of the public to see what they may want regarding placing district on the ballot again.</p> <p>Vice Chair Koga stated that she likes the 3+2+1 proposal and the simplest.</p> <p>Commissioner TenBruggencate stated that he is leaning to the 4 districts with 3 at large. He went on to say that there would be a need for reapportionment for 4 districts, but every</p>	



SUBJECT	DISCUSSION	ACTION
	<p>voter on the island would get to vote for 4 seats. So you would have you would have the comfort that there were 4 people who dependent on you for their vote. He also stated that he wouldn't mind leaving it the way it is but I think that ability that the voters feel that they have blood in the game is has has value.</p> <p>Administrator Ching pointed out that new Commissioner Bautista may have some comments.</p> <p>Commissioner Bautista stated that his biggest question is how the community feels. He's trying to understand how it would affect the voters and would they understand it and need for voters to come out for their districts. Also, that he may feel someone in another district could help the whole island and he would want to vote for them.</p> <p>Administrator Ching shared that Commission has the option to form a Permitted Interaction Group to look more closely on the districting issue and how the community feels. She also noted that the Commission at the last election was the first to do a digital campaign and results showed clearly that more voters were engaged, understood what they were voting on, and voted.</p> <p>Commissioner Kapili spoke on voter engagement and acknowledged the work and possibility of using digital media to find out what public wants. She asked what the final deadline is to get proposal on ballot.</p> <p>Commissioner TenBruggencate stated that the job of the Commission is to put things on the ballot for the voters to consider that we think make the County run better. He stated that he does find value in looking at what people's ideas are using social media and find out which among proposals people really like.</p> <p>Administrator Ching stated that she would recommend that if there was to be a survey, she would want it to be with a public information/education piece that comes before the survey. If a districting question appears, that they would be more prepared to vote on it.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>She stated that it would take time. She reported that the deadline to get ballot question to County Clerk is June and does not feel the deadline would be made if want to do a deep dive.</p> <p>A discussion on budget needed to run such a campaign ensued with Commission, County Clerk and Administrator.</p> <p>Commission engaged in a lengthy discussion of doing a poll or survey by choosing maybe three proposals and using social media, a survey engine, or a community organization to do one on behalf of the Commission.</p> <p style="text-align: center;"><i>Vice Chair Koga left the meeting at 4:21pm</i></p> <p>Commissioners discussed forming a group to look at during this survey and Administrator explained that forming a Permitted Interaction Group needed to be on the agenda. They also discussed submitting questions as individuals to the Chair. Discussions lead to whether an additional meeting will be needed for January 2022.</p> <p>Administrator Ching suggested an additional meeting in January and would recommend that the meeting only have one agenda item on districting. She will check with IT regarding the possibilities and processes to get something out. She would also suggest a formation of a PIG.</p>	<p>Commissioner TenBruggencate moved to have staff schedule an additional meeting for January with districting being the only agenda item, have Administrator Ching check with IT regarding possibilities and processes to get a survey or something out and adding an agenda item to form a PIG. Commissioner Kapali seconded.</p> <p>4 Ayes, 0 Nays</p>

SUBJECT	DISCUSSION	ACTION
		Motion carried 4:0.
	<p><u>CRC 2021-04 Discussion and possible action on Charter Initiatives of interest.</u></p> <p>Commissioner TenBruggencate asked that staff report on some possible proposals from the past to reconsider.</p> <p>Administrator Ching suggested that some housekeeping ballot questions that was on the ballot and did not pass. For example the amendment to have the County to be like KIUC, to run electric company, it was proposed, but did not pass.</p>	<p>Commissioner TenBruggencate moved to defer and keep on agenda CRC 2021-04 for the next meeting. Commissioner Kapali seconded.</p> <p>Ayes-4 Nays-0          Motion carried 4:0</p>
	<p><u>CRC 2021-06 Discussion and possible action on proposing a Charter amendment relating to Ranked-Choice Voting.</u></p> <p>Commissioner TenBruggencate stated that this was a proposal that that sort of came to mind as an alternative for how to deal with our elections and that he's had conversations with our elections officials who suggests that this currently it's technologically unworkable and I'm ready to receive this.</p> <p>County Clerk Tanigawa thanked the Commission for recognizing the challenges they would have with the voting system. She also asked if counsel had reviewed state statutes as the State is responsible for voting.</p> <p>Commissioner TenBruggencate agreed that this is not for a local undertaking.</p>	<p>Commissioner TenBruggencate moved to receive CRC 2021-06. Commissioner Kapali seconded.</p> <p>Ayes-4 Nays-0          Motion carried 4:0</p>
	<p><u>CRC 2021-08 Discussion and possible action on proposing a Charter amendment relating to Prosecutor Attorney vacancy.</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner TenBruggencate thanked the elections officials for running an excellent election that ended Saturday and is continuing for the prosecutor’s office. He went on to state that one of the things that needs to be considered is the cost and the extraordinary efforts required to conduct a special election, not in conjunction with a regular election, and it is unsustainable going forward. He went on that the proposal before the commissioners still hasn't been reviewed by attorneys, but this proposal is that in the future, if there is a similar vacancy in the prosecutor’s office the deputy would serve until such time as an election can be held in conjunction with a regular election.</p> <p>County Clerk Tanigawa stated that the Council, after recognizing cost of special election, they were willing to move ahead and is happy to hear that Commission is moving ahead. The proposal is in-line with Council.</p>	<p>Commissioner TenBruggencate moved to send proposal to County Attorney for review and edits. Commissioner Kapali seconded.</p> <p>Ayes-4 Nays-0          Motion carried 4:0</p>
<b>Announcements</b>	<p>Next Meeting: January 24, 2022          Special meeting to be coordinated by staff.</p>	
<b>Adjournment</b>		<p>Hearing no objections Chair          Kawane adjourned the meeting at 4:45pm</p>

Submitted by: \_\_\_\_\_  
 Anela Segreti, Administrative Specialist

Reviewed and Approved by: \_\_\_\_\_  
 Reid Kawane, Chair

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

COUNTY OF KAUAI  
 Minutes of Meeting  
 SPECIAL MEETING SESSION

Board/Commission:	<b>CHARTER REVIEW COMMISSION</b>	Meeting Date	<b>JANUARY 10, 2022</b>
Location	Teleconference	Start of Meeting: 3:05 p.m.	End of Meeting: 4:01 p.m.
Present	Chair Reid Kawane, Vice Chair Lori Koga. Commissioners: Bronson Bautista, Virginia Kapali, Marissa Sandblom, Jan TenBruggencate. Also: Hugo Cabrera, Deputy County Attorney. Boards & Commissions Office Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti.		
Excused			
Absent			
<b>SUBJECT</b>	<b>DISCUSSION</b>	<b>ACTION</b>	
	<i>Prior to call of order the Oath of Office for mayoral re-appointees, Reid Kawane and Lori Koga serving second terms ending 12/31/24 was completed.</i>		
<b>Call To Order</b>		Chair Reid Kawane, called the meeting to order at 3:05 p.m.	
<b>Roll Call</b>		Roll Call: Commissioner Bautista-present & alone Commissioner Kapali- present & alone Commissioner Sandblom- present & alone Commissioner TenBruggencate-here, not alone (in dental waiting room) not able to hear or participate Vice Chair Koga- present & alone Chair Kawane - present & alone Quorum: 6 commissioners present	
<b>Agenda</b>		Vice Chair Koga moved to approve the agenda. Commissioner Kapali seconded.	

SUBJECT	DISCUSSION	ACTION
		Voice Vote: 6 Ayes, 0 Nays Motion carried 6:0
<b>Minutes</b>	<u>None</u>	
<b>Public Testimony</b>	Bert Lyon online, but no testimony.	
<b>Communication</b>	<u>None</u>	
<b>Business</b>	<u>CRC 2022-01 Election of Chair, Vice Chair for Calendar Year 2022.</u>  Staff clarified that Chair Kawane cannot serve two consecutive years as Chair.	Commissioner Kapali nominated Reid Kawane for Chair and Lori Koga for Vice Chair. Commissioner TenBruggencate seconded.  Commissioner Kapali withdrew nominations of Reid Kawane for Chair and Lori Koga for Vice Chair. Commissioner TenBruggencate withdrew second.  Commissioner Kapali moved that Lori Koga serve as Chair. Commissioner Sandblom seconded.  Voice Vote: 6 Ayes, 0 Nays Motion carried 6:0

SUBJECT	DISCUSSION	ACTION
	<p><i>Chair Koga assumed Chair of the Commission at 3:20pm</i></p>	<p>Commissioner Kapali moved that Jan TenBruggencate serve as Vice Chair. Commissioner Sandblom seconded.</p> <p>Voice Vote:          6 Ayes, 0 Nays          Motion carried 6:0</p>
	<p><u>CRC 2022-02 Discussion and possible approval of the 2022 meeting calendar.</u></p> <p>Administrator Ching asked the Commissioners to look at the June meeting at the end of the month and that another meeting may be needed in May to get ballot questions.</p>	<p>Commissioner Kawane moved to approve the calendar. Commissioner TenBruggencate seconded.</p> <p>Voice Vote:          6 Ayes, 0 Nays          Motion carried 6:0</p>
	<p><u>CRC 2020-17 Discussion and possible action on proposing a Charter amendment relating to Council Districting.</u></p> <p>Commissioner Sandblom asked for clarification on CRC 2022-03 after this item.</p> <p>Deputy County Attorney explained that CRC 2022-03 needed to be on the agenda for group to be formed.</p> <p>Administrator Ching clarified that after the last meeting it was decided that there needed to be a special meeting to discuss districting and possible need to form a Permitted Interaction Group (PIG) and completing a survey. She went on that this is a standing agenda item due to the on-going discussions and possibility of the</p>	

SUBJECT	DISCUSSION	ACTION
	<p>need for open discussion.            Commissioner Bautista clarified if the discussion can be about if the Commission wants to move to forming a Permitted Interaction Group (PIG).</p> <p>Commissioners discussed their first votes related to their understanding of whether to form a Permitted Interaction Group would be discussed in the next item.</p> <p>Chair Koga asked Deputy County Attorney Cabrera if she could take this out of order. And move on to next two agenda items and then return to this one.</p> <p>Deputy County Attorney Cabrera affirmed.</p> <p>Chair Koga noted that there is a motion and second and will return to this item.</p>	<p>Commissioner Kawane moved to defer CRC 2020-17. Commissioner TenBruggencate seconded.</p> <p>Voice Vote:            6 Ayes, 0 Nays            Motion carried 6:0</p>
	<p><u>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.</u></p> <p>Commissioner TenBruggencate stated that the group would be able to discuss and research what is needed to ease the process and come back with a recommendation to the Commission.</p> <p>Administrator Ching stated benefits of having a PIG and that the three members of the PIG must be Charter Commissioners.</p> <p>Deputy County Cabrera noted that it is not a quorum that meets to discuss and do research and no voting is done and is not subject to open meeting laws. He added that this meeting is to establish the scope of the PIG and assigning members if that is direction they want to go. Another meeting would be noticed when the PIG has</p>	



SUBJECT	DISCUSSION	ACTION
	<p>recommendations to present.</p> <p>Commissioners clarified with staff the makeup of the PIG, staff's role and process. Chair Sandblom clarified with Deputy County Attorney Cabrera that the subsequent agenda item about conducting a survey of voters could be something the PIG could discuss or incorporate.</p> <p>Deputy County Attorney Cabrera stated that it could be incorporated into the role of the group to come up with the survey and either conduct it or investigate someone conducting the survey and should be established in the scope.</p> <p>Chair Sandblom stated she is happy to serve but voiced her concern that Vice Chair TenBruggencate could be helpful on the PIG with his knowledge and experience.</p> <p>Commissioners discussed timelines of the PIG submitting a report.</p> <p>Commissioners Sandblom, Kawane, and Bautista volunteered to be members of the PIG.</p>	<p>Commissioner Sandblom moved to establish a Permitted Interaction Group (PIG). Commissioner Kawane seconded.        Ayes-6 Nays-0        Motion carried 6:0</p> <p>Moved that the PIG be established for the purpose of creating a written report recommendation on how and whether to create districting for our County Council and that permitted interaction group be authorized to access all previous communications of districting proposals to the Commission and able to review additional recommendations, that it be authorized to conduct any other kinds of research required, including interacting with subject matter experts and members of the Kaua'i public. Commissioner Sandblom seconded.        Ayes-6 Nays-0        Motion carried 6:0</p>
	<p><u>CRC 2022-04 Discussion and possible action on conducting a survey of the voters regarding Council Districting.</u></p> <p>Administrator Ching reported that she checked with Office of Public Information, and they are concerned that the Commission doing a survey that with Charter Review when an amendment is put up, that is what the voters want. Putting an</p>	

SUBJECT	DISCUSSION	ACTION
	<p>amendment on the ballot is the decisive factor. She clarified is that they are against doing the survey, they suggest that a group could do a survey, but it must be separate and apart from the Commission. She did get some suggestions of questions and could approach groups suggested.</p>	<p>Commissioner TenBruggencate moved to authorize staff to identify organizations to conduct a survey that might be useful to the Commission in consideration of districting. Commissioner Sandblom seconded.</p> <p>Ayes-6 Nays-0            Motion carried 6:0</p>
<p><b>Announcements</b></p>	<p>Next Meeting: January 24, 2022</p> <p>Chair asked whether an executive session is needed. Hearing none, the Commission did not move to executive session.</p>	
<p><b>Adjournment</b></p>		<p>Hearing no objections Chair Koga adjourned the meeting at 4:01pm</p>

Submitted by: \_\_\_\_\_  
 Anela Segreti, Administrative Specialist

Reviewed and Approved by: \_\_\_\_\_  
 Lori Koga, Chair

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

## **Proposed Charter Amendment to Remove Article XXX relating to the Electric Power Authority**

### **Ballot Question:**

Shall the Charter be amended by repealing Article XXX, which empowers the Council to create an electric power authority by ordinance?

### **Purpose:**

The purpose of this amendment is to remove the article empowering the Council to establish an electric power authority by ordinance, since the Kaua‘i Island Utility Cooperative has competently managed and operated Kaua‘i’s electrical power system, and delivered electrical power to Kaua‘i in an economically viable manner, for more than a decade and a half.

### **Background:**

Article XXX was approved by the voters in the 2002 general election. The County Council proposed Article XXX as a Charter amendment in response to the proposed sale of Kaua‘i Electric Company to the Kaua‘i Island Utility Cooperative (KIUC). Article XXX empowered the County to intercede in the event that the sale of Kaua‘i Electric to KIUC collapsed, or if KIUC had problems in providing electrical services. In September of 2003, the Hawai‘i Public Utilities Commission (PUC) approved the sale of Kaua‘i Electric to KIUC. Since 2002, KIUC, Hawai‘i’s only member owned electrical cooperative, has managed and operated the electrical power system on Kaua‘i.

## ~~{ARTICLE XXX ELECTRIC POWER AUTHORITY}~~

~~{Section 30.01. Electric Power Authority. The council may establish by ordinance an electric power authority corporation for the county, which shall be a body corporate, and shall be responsible for the planning, development, production, purchase, transmission, and distribution of all electricity-related services by the county.~~

~~If established by ordinance, all provisions of this article XXX shall be included in the ordinance and no ordinances shall be enacted and no administrative rules shall be adopted, which either expressly or by implication conflict with the provisions of this article.~~

~~Sections 30.02 through 30.06 of this article shall be effective thirty calendar days from and after the enactment of an ordinance establishing an electric power authority for the County of Kaua‘i.~~

~~If established by ordinance, the authority shall operate as a separate unit of county government, except as otherwise provided in this charter. The authority shall be free from the jurisdiction, direction, and control of other county officers and of the council.~~

~~Notwithstanding any provision in the charter to the contrary, the council may by ordinance enact any further provisions it deems necessary to implement this article including, but not limited to, provisions concerning the power authority’s powers, duties, and liabilities, its organization and governing structure, the manner in which officers and employees are elected, appointed, or employed, and the manner in which rates are set and the authority’s revenues are utilized.~~

**~~Section 30.02. Board of Directors of the Electric Power Authority.~~** There shall be a board of directors of the electric power authority, which shall have exclusive jurisdiction, control, and policy-making responsibility over the authority and all of its operations and facilities.

~~The board shall have and may exercise all rights, powers, duties, privileges, and immunities possessed by the county, which are or may be secured by law including, but not limited to, all powers and duties possessed by the county to construct, acquire, expand, and operate the utility, and to do any and all acts or things that are necessary, convenient, or desirable in order to operate, maintain, enlarge, extend, preserve, and promote an orderly, economic, and business-like administration of the utility.~~

~~The board shall adopt articles of incorporation and by-laws consistent with all provisions of this article. Such articles and by-laws may be amended from time to time by the board; however, any such amendments shall be consistent with all provisions of this article. Such articles and by-laws shall also include provisions as are customary to set forth both the corporation's purpose and nature and the procedural matters necessary for its governance.~~

~~The board shall operate as a separate unit of county government, except as otherwise provided in this charter. Both the board and the authority shall be free from the jurisdiction, direction, and control of other county officers and of the council.~~

~~The board may sue or be used in its own name. All liability from damage claims arising from the operations of the board and the authority shall be the responsibility of and be liquidated by the board from the appropriate funds of the authority.~~

**~~Section 30.03. Organization of the Board.~~**

~~A. Number of directors. The board shall consist of seven directors, one of whom shall be the chief executive officer of the authority, and six of whom shall be elected at large. All seven directors shall be voting members of the board. Charter section 7.05K shall not apply to this article.~~

~~B. Election and tenure of directors.~~

~~1. Directors elected at large. Directors elected at large shall be elected at the next regularly scheduled general election after the enactment of the ordinance creating the authority.~~

~~2. Subject to the provision in paragraph D of this section that the terms of the first directors who have no licensing or education and experience qualification requirements shall be two years, all directors shall serve terms of four years, unless they die, resign, or are removed from office pursuant to paragraph D of this section. The terms of all elected directors shall begin at twelve o'clock meridian on the first working day of December following their election.~~

~~3. Term limits of directors. No elected director shall serve as director for more than two consecutive full terms.~~

~~C. Vacancies. Vacancies shall be filled by the board for the unexpired term. No vacancy on the board shall impair the right of the remaining directors to exercise all the powers of the board.~~

~~D. Qualifications. All persons seeking positions as elected directors shall, upon filing for their candidacies, be citizens of the United States and registered voters in the county. In addition, three of~~

~~the six elected directors shall possess the following additional qualifications upon filing for their candidacies:~~

~~Three of the six elected directors must either:~~

~~(1) Have been licensed by any state in the United States for a minimum of five years in engineering, accountancy, or law; or~~

~~(2) Have an undergraduate or graduate degree in business management or business administration from a university or college within the United States accredited by the Middle States Association of Colleges and Schools, North Central Association of Colleges and Schools, New England Association of Schools and Colleges, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or the Western Association of Schools and Colleges and have worked in the field of business management or business administration for a minimum of five years.~~

~~All persons seeking positions as elected directors shall specify in their nomination papers whether they are seeking to be elected for one of the three director positions which have licensing or education and experience qualification requirements, or the director position which has no such qualification requirements.~~

~~All persons seeking director positions which have licensing or education and experience qualification requirements shall execute an affidavit stating that the applicant has satisfied the qualification requirements for those positions. The person shall swear to the truth of the allegations by self-subscribing oath in the affidavit. The county clerk shall prescribe the form of the affidavit. If the clerk so desires or believes it to expedient, the clerk may demand that the person furnish substantiating evidence to the allegations in the person's affidavit. If the clerk determines that any person has not satisfied the licensing or education and experience requirements of this paragraph D, the person shall be deemed unqualified for the position sought.~~

~~With respect to any director elected to fill a position having licensing or education and experience requirements, the following rule shall apply. If, at any time, it is learned that any such director has not satisfied these requirements, the board shall immediately remove the director from office. Any vacancies arising from such a removal shall be filled by the board for the unexpired term; provided that all persons appointed by the board as a result of such a removal shall satisfy, at the time of their appointment, the qualification requirements for such elected directors.~~

~~For the director positions which have no licensing or education and experience qualification requirements, the three candidates receiving the highest number of votes shall be elected to those three positions. The terms of the first directors who have no licensing or education and experience qualification requirements shall be two years.~~

~~For the three director positions which have licensing or education and experience qualification requirements, the three candidates receiving the highest number of votes shall be elected to those three positions.~~

~~The qualification requirements of this paragraph D shall not apply to the chief executive officer of the authority.~~

~~No director may hold any county office, be an officer or employee of the county government, or have been an officer or employee of the county government within twelve months of the date that the director's term of office is effective. No director may conduct any business whatsoever with the authority.~~

~~A director convicted of the commission of a felony shall be removed from office when convicted of the felony.~~

~~E. Officers. The board by majority vote shall elect from among its members a chair who shall preside over the meetings of the board, and a vice chair who shall act for the chair during absences, and may elect from among its members one or more vice presidents, a secretary and a treasurer, and assistant secretaries and treasurers. The board shall prescribe and may amend the duties of all such officers.~~

~~Election of officers shall be held at the first regular meeting at which all members are present following the appointment or election of a new director for a full term, but not later than the second meeting following the appointment or election.~~

~~F. Meetings. The board shall take no action except by the affirmative vote of at least four directors, who shall constitute a quorum.~~

~~The board shall meet at least once each month at such times as the board may prescribe.~~

~~Except where meetings closed to the public are permitted under applicable law, all board meetings shall be open to the public. Agendas shall be posted pursuant to applicable law.~~

~~G. Errors and omissions. The authority shall hold harmless and indemnify its director, chief executive officer, agents, and employees to the full extent permitted by law, including but not limited to, all liabilities, expenses, and losses incurred by its directors, chief executive officer, agents, and employees in connection with acts of error or omissions, other than willful violations of laws, committed within the scope of their duties, and shall defend, at the authority's expense, all related claims and suits.~~

### **Section 30.04. Organization of the Authority.**

~~A. Divisions. The authority shall keep separate funds and accounts as required by the uniform systems of accounts for gas, electricity, water, communications, and other utilities, as promulgated by the Hawai'i Public Utilities Commission or the Federal Energy Regulatory Commission.~~

~~B. Policy. The board shall establish an annual budget and written policies governing utility operations to cover such areas as employees' duties, customer rates, service rules and termination procedures, expenditure of funds, long-range planning, and other appropriate activities.~~

~~C. Chief executive officer. The board shall appoint and the authority shall employ a president and chief executive officer of the authority who shall be qualified by training and experience for the overall management of the utility. The chief executive officer shall serve according to the terms of an employment contract to be executed between the officer and the board, and shall have such authority as delegated by the board. The salary of the chief executive officer shall be fixed by the board.~~

~~The chief executive officer shall, subject to board approval, (1) determine the number of employees necessary for the operation of the utility, and (2) fix their duties and compensation. The chief executive officer shall have control of all actual construction and repairs, the immediate management of operation of the utility, and the enforcement and execution of all rules and regulations, programs, plans, and decisions made or adopted by the board. The chief executive officer shall maintain suitable permanent records regarding actions taken. The chief executive officer shall prepare plans and specifications, take bids, and let contracts, subject to the approval of the board. The chief executive officer shall prepare and submit to the board periodic reports on the utility's compliance with local, state, federal laws in the areas of safety, environmental matters, and civil rights.~~

~~D. Other employees. There shall be such other officers and employees of the authority as may be provided by the board. The officers and employees shall be appointed and removed by the chief executive officer subject to the provisions of applicable local, state, and federal laws or binding contracts entered into with employees and the authority, or both.~~

~~E. Surety bonds. The board may require surety bonds for any of the officers and employees of the authority in such amounts as the board deems necessary. The premiums for the bonds shall be paid by the authority in the same manner as any other operating expense.~~

### **Section 30.05. Powers and Duties of the Board.**

~~A. Real estate and contracts. The board, in the efficient and economical operation of the authority, may, as state law permits: (1) sell its products and services to the public and private corporations and to other consumers; (2) construct and operate plants and operate distribution system, transmission lines, and other facilities; (3) purchase real estate and franchises; and (4) enter into all contracts, leases, and agreements in furtherance thereof.~~

~~B. Joint operations with others. The board may enter into contracts and agreements with any public or private corporation or any individual, both inside and outside the boundaries of the county and state: (1) for the joint use of property belonging either to the authority or to the other contracting party or jointly to both parties; and (2) for the joint acquisition of real and personal property, rights and franchises, and the joint financing, construction, and operation of plants, buildings, transmission lines, and other facilities.~~

~~C. Eminent domain. The board may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain in like manner as the county, and to the same extent as the county, when the board determines that public necessity or convenience requires such action.~~

~~D. Use of thoroughfares for utility installations. The board may use the ground over, under, or along any road, railway, highway, street, sidewalk, thoroughfare, alley, or waterway in the operations of the authority but shall in all cases and subject to the applicable general regulations of the county and state cause the surface of the public way to be restored to its usual condition.~~

~~E. Rates. The board shall fix rates and other charges to be assessed against each customer class for electrical services rendered by the authority. Rates and other charges for each customer class shall be based on the cost of the service provided and be just, reasonable, compensatory, and without undue preference or discrimination.~~

~~The board may require reasonable deposits as security for the payment of charges for utility services, and may provide for the return of the deposits when satisfactory consumer credit has been established.~~

~~F. Authorization for expenditures. No money shall be drawn from the funds of the authority nor shall any obligation for the expenditure of money be incurred except in conformity with authorization by the board. No claim against the authority shall be paid unless evidenced by a voucher approved by the chief executive officer, or by some other employee to be designated by the chief executive officer.~~

~~G. Use of utility funds. All utility revenues shall be directed to the provision of utility services and not applied to the general fund of the county, unless the transfer of revenues constitutes a payment in lieu of taxes. Except for those taxes that are assessed pursuant to county, state, or federal law, no other taxes or fees, or both, shall be assessed against the authority. Nothing in this section G shall~~

~~prohibit the authority from entering into such business arrangements or contracts, or both, with the county as the board may deem advisable.~~

~~H. Bond issues and other indebtedness. Subject to applicable state laws, the board may authorize the issuance and sale of revenue bonds or other types of indebtedness necessary to finance the acquisition, construction, improvement, and extension of the utility facilities owned by the county or authority, including facilities owned or operated jointly with others. Use of general obligation bonds may entail approval by the county council.~~

~~I. Short-term indebtedness. The board may borrow money for periods not to exceed three years and may issue negotiable notes, payable from the revenues of the authority, as evidence of the indebtedness. The action of the board may be by resolutions that may be adopted at the same meetings at which the resolutions are introduced and shall take effect immediately upon adoption.~~

~~J. Investment of surplus funds. The board may invest surplus funds of the authority in securities that are deemed safe and as may be authorized by specific action of the board.~~

~~K. Delegation of powers. The board shall retain powers relating to budget approval, rate setting, and long-term indebtedness; however, it may from time to time delegate in writing other powers to officers or employees responsible to it, as may be necessary.~~

#### **Section 30.06. General Provisions.**

~~A. Disposition of power authority. The county council shall have no authority to cease to operate, or to sell, lease, abandon, or in any other way dispose of the electric power authority under this article, without first holding a public hearing during which a certified public accountant shall present a report to the county council concerning the revenue that has been earned by the electric power authority throughout the county's ownership, and an analysis of the revenues to be lost by the county through the proposed sale of the electric power authority.~~

~~There shall be two council votes at least six calendar months apart to call a referendum election concerning a sale of the authority. The county shall hold a referendum election which must be passed by a majority of the voters, voting at the election, to approve a sale. The referendum election shall be held at the next regularly scheduled general election.~~

~~B. Existing obligations. Contracts and obligations relating to the electric power authority which were incurred prior to the effective date of sections 30.02 through 30.06 shall not be impaired, and shall be binding upon the board insofar as they apply to the authority.~~

~~C. Repeal of prior county charter provisions and ordinances. All county charter provisions and ordinances and parts of county charter provisions and ordinances inconsistent with any provision of this article are hereby repealed; however, all county charter provisions and parts of county charter provisions that are not inconsistent with any provision of this article including, but not limited to, article XX of the charter, shall apply to this article.~~

~~D. Severability of provisions. If any provision of this article, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the sections, subsections, and parts thereof of this article are severable. (Amended 2002)]~~