

Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved as circulated 11/25/19

Board/Commission:	CHARTER REVIEW COMMISSION	Meeting Date	October 28, 2019
Location	Mo'ikeha Building, Meeting Room 2 A/B	Start of Meeting: 3:01 p.m.	End of Meeting: 4:53 p.m.
Present	Chair Jan TenBruggencate, Vice Chair Marissa Sandblom. Members: Carol Suzawa, Patrick Stack, Lori Koga, Reid Kawane. Also: Boards & Commissions Office Staff: Administrative Specialist Anela Segreti. Testifiers: Board of Ethics Chair Dean Toyofuku, Cost Control Chair James Whitfield		
Excused	Virginia Kapali		
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair TenBruggencate called the meeting to order at 3:01 p.m. with six members present which constituted a quorum.
Agenda		Hearing no adjustments to the agenda Chair TenBruggencate approved the agenda.
Approval of Minutes	<u>Open Session Minutes of September 30, 2019</u> Mr. Kawane noted that Chair TenBruggencate is listed as Vice Chair on pg. 1. <u>Executive Session Minutes of September 30, 2019</u>	Ms. Suzawa moved to approve the Open Session Minutes of September 30, 2019 as amended and the Executive Session Minutes as submitted. Ms. Koga seconded. Motion carried 6:0
Communications	<u>CRC 2019-12 Letter received from Councilmember Felicia Cowden dated October 2, 2019 regarding Testimony Regarding CRC 2019-08: Proposal to Amend Section 1.03B1 of the</u>	

SUBJECT	DISCUSSION	ACTION
	<p><u>Charter of the County of Kaua'i.</u> <u>CRC 2019-13 Email received from Prosecuting Attorney, Justin Kollar dated October 16, 2019 regarding proposed language for amendment to Charter Section 1.03 County Elections B.1. Offices of the Mayor and Prosecuting Attorney.</u></p> <p><u>CRC 2019-14 Email received from Prosecuting Attorney, Justin Kollar dated October 16, 2019 regarding proposed language for amendment to Charter Section 9A.05, Vacancy in Office of Prosecuting Attorney.</u></p> <p>Chair TenBruggencate pointed out that these three communications will be taken up later in the agenda in the Business section of the meeting and suggested to not have discussion and this time and entertained a motion on all three to receive.</p>	<p>Mr. Stack moved to receive CRC 2019-12 CRC 2019-13 and CRC 2019-14. Ms. Suzawa seconded. Motion carried 6:0</p>
<p>Business</p>	<p><u>CRC 2019-06 Letter received from Board of Ethics dated June 28, 2019 regarding Ethics Disclosure Statements Requirements</u></p> <p>Chair TenBruggencate explained that the proposal is to amend the disclosure language of the Charter, to add people that are designated on behalf of the County and the Finance Department to the required list of people that need to file ethics disclosures.</p> <p>Dean Toyofuku, Chair Board of Ethics, apologized for missing last meeting and thanked Commission for their time. Mr. Toyofuku summarized the Board of Ethics review of the Disclosure Form and instructions to make things clearer. Reviewed who must file a disclosure, compared what was written, “The Mayor, Councilpersons, Prosecuting Attorney, all department heads and deputies, members of boards and commissions, the purchasing agent, and all candidates for elective office”, in the instructions with what is in the Charter, “The Mayor, Councilpersons, Prosecuting Attorney, all department heads and deputies, members of boards and commissions, the purchasing agent, any employee delegated or authorized to act on behalf of the director of finance and deputy director of finance in their absence, and all candidates for elective office”, and moved to revise it to the Charter language. The Board did not know that</p>	

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	<p>they needed to get a disclosure from the delegated employee in the Department of Finance. Raised the question about the other departments, do they have dedicated designated employees? Not sure if they are the body to investigate. Second question that came up was with the new administration there are new titles, for example, Managing Director, and there could be others added over time. The Managing Director did submit a disclosure statement, even though the previous disclosure did not say he needed to. Board of Ethics is trying to make sure everything is clear.</p> <p>Vice Chair Sandblom clarified that given the previous description of the previous language the Board in May mimicked what was in the Charter. In addition there is an additional question about new titles, new positions that are not in the Charter, and Finance delegated employee. Questioned that the disclosure form is a financial disclosure form for assessing financial conflict and maybe that is why Finance is defined, because of procurement, financial relations.</p> <p>Mr. Toyofuku explained that the responsibility of the Board is to look for ethical violations, not specifically financial.</p> <p>Ms. Suzawa clarified that could include contracts which does not include finance. So if eliminate Finance or any department, it would be broader and cover anybody.</p> <p>Chair TenBruggencate suggested that Finance is looked at with greater scrutiny is that the Director of Finance can bind the County more frequently and to a greater extent than any other director. So if there's going to be fraud it's going to be where the money's at, and that may be a reason for that. He asked if the Board if they looked beyond department heads and if agency heads should be covered, i.e. Elderly and Transportation and Economic Development and if they had, why was it not brought to the Commission.</p> <p>Mr. Toyofuku explained that the Board was not sure of process and what they should be supplying. They would like take information from Commission, do research and return with something more detailed.</p>	

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	<p>Chair TenBruggencate said it would be useful to the Commission and they would like to hear it.</p> <p>Mr. Kawane feels that the Department or Department Head has more authority to give out the contract. They give to Finance Department and they will sign off on it, assuming that the Department knows what they are doing with a contract, so it should encompass all Departments that have authority to contract outside of the County.</p> <p>Chair TenBruggencate stated that it's a rare occasion that both the Head and Deputy is out at the same time, but it could have it.</p> <p>Vice Chair Sandblom asked if the Board can make changes on their own regarding who needs to complete a Disclosure Form.</p> <p>Todd Jenson, Deputy County Attorney, stated that they are governed by the Charter and what it says.</p> <p>Vice Chair Sandblom clarified that the change was bringing the form up to the Charter but not beyond.</p> <p>Chair TenBruggencate suggested this item be deferred and referred back to Board of Ethics and include concerns with designated authorities. Asked to get back to Commission at least by the January meeting and asked for a motion.</p>	<p>Mr. Kawane moved that CRC 2019-06 be deferred and that the Board of Ethics return by at least the January 2020 meeting to present their proposal. Ms. Sandblom seconded.</p>

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		Motion carried 6:0
	<p><u>CRC 2019-09 Letter received from the Cost Control Commission dated September 9, 2019 regarding Charter Proposal to amend Article XXVIII Cost Control Commission.</u></p> <p>Chair TenBruggencate explained that this is Charter Proposal is from Cost Control Commission regarding expanding the authority of the Cost Control Commission to include revenue enhancement.</p> <p>James Whitfield, Chair, Cost Control Commission, explained that Commission be renamed the Cost Control and Revenue Enhancement Commission and to expand the functions/role of the Commission.</p> <p>Mr. Stack questioned whether Cost Control/Revenue Enhancement sounds like they may be cancelling each other out.</p> <p>Mr. Whitfield explained that they are related and that the things that they are looking at, weary that looking at revenue enhancement may not be in the purview of Cost Control as it has been traditionally been operating. They feel that going forward the Commission should put more emphasis on revenue enhancement measures and expenditure rationalization to help improve the fiscal position of the County. In the past they were just looking at axing positions or programs, doing away with what may appear to be incidental. This is not fair to workers and tax payers. To do effective cost control need to look at revenues and are they being applied properly.</p> <p>Mr. Stack asked for an example of a revenue enhancement.</p> <p>Mr. Whitfield explained that after the floods, tourist are being charged up in Koke'e and Ke'e Beach to raise additional revenue to maintain these properties. How can we enhance revenues and use it to control cost to tax payers.</p>	

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	<p>Chair TenBruggencate pointed out that the Commissions do not make decisions, they can only recommend and other agencies or the electorate make final decisions.</p> <p>Ms Koga asked about Wailua Golf Course fees. The Commission could make a recommendation to increase fees and that would be a revenue enhancement and then what happens to the recommendation. Would they recommend how much of a raise?</p> <p>Mr. Whitfield noted that in 2011 the Commission did make a recommendation to raise fees and the Council did raise fees, but no one ever implemented it. His understanding is that there was a lot of public opposition to it. So when it comes to the golf course, how could they use the facilities to raise more revenue through the golf course?</p> <p>Chair TenBruggencate asked if other municipalities that have handled a commission like proposed been looked at.</p> <p>Mr. Whitfield stated that he looked at the Grace Commission. But he's not able to find too many that are Revenue and Cost Control. Most are named either and many work closely with the County Auditor. On the Big Island they are working with the auditor. Cook County just started one. They are recommending five year plans to enhance revenues to control costs. Alabama different municipalities have gone to revenue enhancement commissions are working along with their councils.</p> <p>Ms. Sandblom asked if he was able to find similarities with other Hawaii counties.</p> <p>Mr. Whitfield identified Cost Control Commission on the Big Island and working closely with auditor. He believes that some recommendations have had to do with revenue allocations.</p> <p>Ms. Koga asked if adding revenue enhancement to Cost Control would make it more difficult to find commissioners.</p>	

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	<p>Mr. Whitfield thinks it might be better. If they could look more for people from the finance, banking community or retired from such.</p> <p>Ms. Suzawa suggested looking at Big Island Charter on Cost Control as they are already making some recommendations with revenue allocations. Discussion on getting more information.</p>	<p>Vice Chair Sandblom moved to defer to next month for more information. Ms. Koga seconded. Motion carried 6:0</p>
	<p><u>CRC 2019-02 General Discussion on Charter Initiatives of Interest</u></p> <p>No discussion.</p>	<p>Without objection Chair TenBruggencate deferred.</p>
	<p><u>CRC 2019-03 Discussion on County Auditor Position</u></p> <p>Continue to wait for information from County Council.</p>	<p>Without objection Chair TenBruggencate deferred.</p>
	<p><u>CRC 2019-05 Proposal to add to Charter, qualifications for Police Chief</u></p> <p>Chair TenBruggencate explained that Councilmember Cowden has introduced a resolution to the Council which is identical to language that Police Commission brought to Charter Commission. He is recommending that Commission keep this on the agenda.</p> <p>Commission discussed what would happen if it was removed from agenda. Would take time to bring it back on. Police Commission has not requested that Charter Commission drop the request. Councilmember has introduced a resolution that is going forward. If it passes and it will be put on the ballot and it is the same than he would suggest that they drop request to Charter from Police Commission.</p>	<p>Ms. Suzawa moved to defer CRC 2019-05. Ms. Sandblom seconded. Motion carried 6:0</p>
	<p><u>CRC 2019-16 For information and discussion County Council Meeting 10/23/19 Agenda Item C 2019-229 a communication dated 10/14/19 from Councilmember Cowden transmitting for Council consideration, a Resolution Proposing A Charter Amendment Relating To Qualifications For the Chief of Police. Resolution No. 2019-53.</u></p>	<p>Ms. Suzawa moved to receive CRC 2019-16. Ms. Sandblom seconded.</p>

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	<p>change the language of the Charter in situations where there are only two candidates for a non-partisan single seat office, i.e. Prosecuting Attorney and Mayor’s Office that decision be decided in the primary. There used to be language that allowed whoever won the primary to take office only if they had 50% of the votes plus one. Issue is do they want to change the Charter as suggested or look at another option.</p> <p>Commissioners discussed reasoning behind this proposal for the Prosecuting Attorney’s Office and other options, i.e. go back to 50% plus one or if only two candidates they go directly to general election.</p> <p>Anela Segreti, Administrative Specialist conducted a roll call vote.</p>	<p>Ms. Koga moved to receive CRC 2019-13. Mr. Kawane seconded.</p> <p>Roll Call Vote: Commissioner Suzawa: nay Commiseioner Stack: nay Commissioner Koga: aye Commissioner Kawane: aye Vice Chair Sandblom: aye Chair TenBruggencate: aye Commissioner Kapali: excused Motion carried: 4 ayes and 2 nays.</p>
	<p><u>CRC 2019-14 For discussion email received from Prosecuting Attorney, Justin Kollar dated October 16, 2019 regarding proposed language for amendment to Charter Section 9A.05, Vacancy in Office of Prosecuting Attorney.</u></p> <p>Chair TenBruggencate explained that this seems to be a correction of an error. He read the current Charter language and pointed out it does not say what is done between a year and eighteen months. The proposed language seems to define what is done in that six month gap that is not specified in the Charter.</p>	

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	<p>Commissioners discussed this housekeeping measure, fixing a clear problem.</p> <p>Chair TenBruggencate requested that proposal be sent to County Attorney’s Office for review.</p>	<p>Vice Chair Sandblom moved to approve CRC 2019-14. Ms. Koga seconded. Motion carried: 6:0</p>
	<p><u>CRC 2019-15 For discussion Fact Sheet 2020 Charter Amendment by Council Resolution Timeline. Elections Division Office of the County Clerk</u></p> <p>Discussed Council Resolution Timeline for Council which is till June. Charter Commission will need to make their decisions before that.</p> <p>Chair TenBruggencate called for a motion.</p> <p>Commissioners discussed Commissions timeline. In past March/April was deadline for final reviews and then discuss getting out for education of proposed amendments. Commission asked for Boards and Commission Administrator to present timeline at next meeting.</p>	<p>Ms. Suzawa moved to receive CRC 2019-15. Ms. Koga seconded. Motion carried 6:0</p>
Announcements	<p>Next meeting: Monday, November 25, 2019, 3:00 p.m., in the Mo’ikeha Building, Meeting Room 2A/2B.</p> <p>Ms. Suzawa stated she will be off island for the week and will not be attending meeting.</p>	
Executive Session	<p><u>ES-011 Pursuant to Hawai‘i Revised Statutes (HRS) §92-4, §92-5 (a) (4), the County Attorney will provide a briefing, discussion, and consultation regarding the letter received from the Board of Ethics dated June 28, 2019 regarding Ethics Disclosure Statements Requirements.</u></p>	<p>Mr. Stack moved to go into Executive Session at 4:28pm. Vice Chair Sandblom seconded. Motion carried 6:0</p>
Return to Open Session	<p>Ratify Commission actions taken in Executive Session for ES-011.</p>	<p>The meeting resumed in Open Session at 4:52 pm. Ms. Suzawa moved to ratify the actions taken in</p>

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		Executive Session for ES-011. Ms. Sandblom seconded. Motion carried 6:0.
Adjournment		With no objection, Chair TenBruggencate adjourned the meeting at 4:53 pm.

Submitted by: _____
Anela Segreti, Administrative Specialist

Reviewed and Approved by: _____
Jan TenBruggencate, Chair

(X) Approved as circulated.

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