

# Approved

COUNTY OF KAUAI  
Minutes of Meeting  
OPEN SESSION

Approved as amended 12/16/19

Board/Commission:	<b>CHARTER REVIEW COMMISSION</b>	Meeting Date	<b>November 25, 2019</b>
Location	Mo'ikeha Building, Meeting Room 2 A/B	Start of Meeting: 3:00 p.m.	End of Meeting: 5:31 p.m.
Present	Chair Jan TenBruggencate, Vice Chair Marissa Sandblom. Members: Patrick Stack, Lori Koga, Reid Kawane. Also: Boards & Commissions Office Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti. Testifiers: Cost Control Chair James Whitfield, Liquor Control Commission Commissioner Gerald Matsunaga, Salary Commission Chair Kenneth Rainforth; Michael Dahilig, Managing Director, Department of Water Chief Engineer Bryan Wienand, Dennis Esaki		
Excused	Virginia Kapali, Carol Suzawa		
Absent			
SUBJECT	DISCUSSION	ACTION	
<b>Call To Order</b>		Chair TenBruggencate called the meeting to order at 3:00 p.m. with five members present which constituted a quorum.	
<b>Agenda</b>		Hearing no adjustments to the agenda Chair TenBruggencate approved the agenda.	
<b>Approval of Minutes</b>	<u>Open Session Minutes of October 28, 2019</u> <u>Executive Session Minutes of October 28, 2019</u>	Without objections the Open Session and Executive Session Minutes of October 28, 2019 were approved as submitted.	
<b>Communications</b>	<u>CRC 2019-17 Memorandum received from Council Chair, Arryl Kaneshiro dated October 28, 2019 regarding follow-up to the resolution proposing a charter amendment relating to qualifications for the Chief of Police</u>	Ms. Koga moved to receive CRC 2019-17. Ms. Sandblom seconded.	

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	<p><u>CRC 2019-18 Letter received from the Salary Commission dated November 6, 2019 regarding Proposal Amendment to the Kaua'i County Charter.</u></p>	<p>Motion carried 5:0             Ms. Koga moved to receive CRC 2019-18. Ms. Sandblom seconded. Motion carried 5:0</p>
<b>Business</b>	<p><u>CRC 2019-02 General Discussion on Charter Initiatives of Interest</u></p>	<p>No action</p>
	<p><u>CRC 2019-03 Discussion on County Auditor Position</u></p> <p>Chair TenBruggencate reminded Commissioners that they are still waiting to hear from Council whether they will be hiring. He recommended deferral.</p>	<p>Ms. Koga moved to defer CRC 2019-03. Ms. Sandblom seconded. Motion carried 5:0</p>
	<p><u>CRC 2019-05 Proposal to add to Charter, qualifications for Police Chief</u></p> <p>Chair TenBruggencate asked if anyone was present from the Commission. No one in attendance.</p> <p>Chair TenBruggencate testified at Council meeting and shared that he was not speaking on behalf of the Commission, but personally he felt it was a good idea and it didn't matter who put it on ballot. He suggested that since the Council is proceeding the Commission should defer.</p> <p>Ms. Ching shared the additional information received from the Council, which is a floor amendment (on file) from Councilmember Cowden regarding added testimony from Police Commission Chair Hertog during the Public Hearing.</p> <p>Chair TenBruggencate pointed out the change which specifies 15 years as a Peace Officer in full service public sector law enforcement agency.</p> <p>Ms. Ching explained that it addresses the issue of having experience as an actual police officer,</p>	<p>Ms. Koga moved to receive the floor amendment document and defer CRC 2019-05. Ms. Sandblom seconded. Motion carried</p>

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	<p>which they feel is critical.</p>	<p>5:0</p>
	<p><u>CRC 2019-06 Discussion and possible action on proposed Charter amendment regarding Ethics Disclosure Statements Requirements</u></p> <p>Chair TenBruggencate explained that this was the item that would require that people who have the authority to bind the County financially be required to submit an Ethics Disclosure documents.</p> <p>Chair TenBruggencate made note that there is a potential of having about a dozen or more Charter Amendments and that they may not want to put that many on the ballot and reminded the Commissioners that they keep in mind that they retain the authority to not put all that have been approved on the ballot. To make sure they don't confuse voters with too many options.</p> <p>Ms. Ching reported that the Board of Ethics met and the amendments are in the process of being drafted and will be forwarded to this Commission after approval.</p>	<p>Ms. Koga moved to defer CRC 2019-06. Ms. Sandblom seconded. Motion carried 5:0</p>
	<p><u>CRC 2019-09 Discussion and possible action on Charter Proposal to amend Article XXVIII Cost Control Commission.</u></p> <p>Chair reminded Commission this was to add Revenue Enhancement to Cost Control.</p> <p>Chair James Whitfield appeared on behalf of the Cost Control Commission. He shared his research on Maui and Hawaii Island Counties. He sent a copy of a report from Maui (not received). He reported that Maui and Hawaii Island commissions work very closely with the Auditor. The Cost of Government Commission (Maui) looks at revenue enhancement as well as being more efficient in the cost. He read the Cost of Government Commissions mandates and excerpts from their 2017-2018 annual report. For Hawaii Island they meet every four (4) years and make recommendations to the Auditor, both cost and revenue enhancement.</p> <p>Ms. Sandblom supports moving it along, but does not feel it's as simple as adding Revenue</p>	

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	<p>Enhancement. When she looks at the subsections there are references to cutting cost and may need a sentence or two to clarify. She is in support of moving it along and getting language drafted.</p> <p>Chair Whitfield mentioned that Deputy County Attorney Andrew Michaels had met with him and put together language to add in revenue enhancement.</p> <p>Chair TenBruggencate requested that Vice Chair Sandblom work with the Deputy County Attorney on proposed language.</p>	<p>Mr. Stack moved to defer and assign to Vice Chair Sandblom to write proposed language for CRC 2019-09. Mr. Kawane seconded. Motion carried 5:0</p>
	<p><u>CRC 2019-11 Memorandum received from the Liquor Control Commission dated September 13, 2019 regarding proposed 2020 Charter Amendment.</u></p> <p>Gerald Matsunaga, Liquor Control Commissioner, explained why they are proposing amending term limits. This came up because there is a member of Liquor Control Commission that has served two terms that would be an asset to another commission, but cannot without waiting a year. He looked at other counties, Oahu two 5 year terms, Maui and Hawaii Island is one 5 year term, but they can choose to serve on another commission if they so desire. He is aware that it is difficult to fill Commissioner slots and the people basically willing to serve are the retirees. Those that are gainfully employed normally employers don't want them to serve unless there is a direct benefit to the employer. He cannot see a good commissioner having to sit out one year until he can serve on another commission.</p> <p>Chair TenBruggencate shared that there is the question on whether the voters would approve that. He mentioned that this issue came up at the Council meeting last week. And that there was a fairly heated discussion that reappointing commissioners is a shame and that there are lots of people that are willing to serve. He acknowledged that he is aware that it is hard to recruit.</p> <p>Ms. Sandblom clarified that the recommendation is to eliminate the one year waiting period,</p>	

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	<p>and it is still in support of two term limit per commission,</p> <p>Mr. Matsunaga stated that there could be a provision that you could serve 2 terms on one commission, but if you want to continue to serve it would need to be on another commission.</p> <p>Mr. Stack asked what his position is on waiting out a year.</p> <p>Mr. Matsunaga feels that if he has to sit out a year, he would probably not be interested on serving on another commission.</p> <p>Dennis Esaki testified that what may also preclude people from serving is that if they are on one board you cannot serve on another board for any other group.</p> <p>Chair TenBruggencate clarified that the term limit was voted in about 10 years ago. The concern as he remembers is that the same people were getting in and the pause would allow more people to participate in volunteering. The other side of this is that it's difficult to get someone and we have commissions that are running at half-staff.</p> <p>Ms. Koga asked if before the change it was easier to fulfil the commissions.</p> <p>Ms. Ching responded that there is a common perspective that there are lots of people who are willing to serve. From calling numerous people this year, it is not the case, there are a lot of people that are not available for a variety of reasons.</p> <p>Ms. Sandblom clarified that someone willing to serve has a process to go through, even without the one year waiting period. It is not a guarantee that once you apply you are in.</p> <p>Chair TenBruggencate requested that proposal be sent to County Attorney's Office for review.</p>	<p>Ms. Sandblom moved to approve and move forward with CRC 2019-11. Mr. Stack seconded. Motion</p>

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	<p><u>CRC 2019-14 Discussion and possible action on proposed language for amendment to Charter Section 9A.05, Vacancy in Office of Prosecuting Attorney.</u></p> <p>Chair TenBruggencate explained that this was a housekeeping measure to correct the fact there is some confusing language regarding what point a deputy gets appointed into a vacancy and what point to a new election.</p> <p>Ms. Ching reported that the language received from the Prosecuting Attorney was sent to the County Attorney’s Office for review. It will be forwarded to the Commission when it is reviewed and sent back.</p>	<p>carried 5:0</p> <p>Vice Chair Sandblom moved to defer CRC 2019-14. Ms. Koga seconded. Motion carried: 5:0</p>
	<p><u>CRC 2019-18 Discussion and possible action on letter received from the Salary Commission dated November 6, 2019 regarding Proposal Amendment to the Kaua’i County Charter.</u></p> <p>Kenneth Rainforth, Chair Salary Commission testified that the language submitted previously. The Commission wants language amended to give the Salary Commission sole discretion for determining salaries for elected and appointed officials. They want to keep any language that this would be salary caps, the appointed body could have a reduced compensation. He was surprised that none of the Council Members could form a coalition to vote down the proposal, which goes to the point that they may not be the right party to be determining what salaries should be for elected and appointed officials.</p> <p>Chair TenBruggencate asked for clarification on proposed language that would have compensation for directors and deputy directors have reasonable relationship to the compensation in the private and public sectors.</p> <p>Mr. Rainforth replied that they do look at compensation in the private and public sector, but does</p>	

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	<p>not think that it is necessary in a Charter amendment.</p> <p>Chair TenBruggencate summarized that the language regarding compensation having a reasonable relationship to private and public sector is not necessary, but that the language regarding the Commission have sole discretion to determine salary caps for elected and appointed officials.</p> <p>Mr. Rainforth confirmed.</p> <p>Chair TenBruggencate expressed his concern of putting this on the ballot so soon after it was turned down. He suggested they defer to think and discuss at one more meeting.</p> <p>Ms. Sandblom asked if it was the Salary Commission’s recommendation to move ahead with this wording in particular or would they be open to putting on the same language as put on ballot last year.</p> <p>Mr. Rainforth could not answer the question.</p> <p>Michael Dahilig, Managing Director, clarified that he wanted to be clear that the Commission has a copy of another proposal that may be in better discourse, rather than looking at the powers of the Commission and it may work well with the Commission’s recommendation. What may make sense is something that talks about the make-up of the Commission and have them be the final arbiter of a salary recommendation. The Council would have an indirect input into the process. He suggested the Commission take a look at other proposals like that.</p> <p>Chair TenBruggencate clarified that the proposal would require that an equal amount of members be appointed by the mayor and council. The six members would agree upon a chair that would serve as the seventh member. That would be the final authority of the salaries. This allows the Council to have a larger influence on developing the resolution.</p> <p>Chair TenBruggencate asked if the two proposals could be combined?</p>	

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	<p>Mr. Dahilig responded that it could be a better way for the Council to have indirect representation into the process, rather than a simple confirmation process.</p> <p>Mr. Rainforth thinks it's an interesting proposal, but he can't see three appointees each from Mayor and Council finding a seventh commissioner. It makes more sense to him if the six commissioners elected one of themselves as chair and then seventh is appointed from the Mayor or Council depending on the who's appointee created a vacancy.</p> <p>Chair TenBruggencate asked for the Salary Commission to discuss the two proposals and develop language to look at.</p> <p>Mr. Rainforth thought it could be done at the Dec. 4 meeting.</p>	<p>Ms. Koga moved to defer CRC 2019-18. Ms. Sandblom seconded. Motion carried 5:0</p> <p>Ms. Sandblom moved to refer to the Salary Commission for a recommendation on how to proceed. Ms. Koga seconded. Motion carried 5:0</p>
	<p><u>CRC 2019-19 Discussion and possible action of Proposal to amend Charter Mayoral Chain of Succession during a temporary absence.</u></p> <p>Chair TenBruggencate reviewed the current succession.</p> <p>Mr. Dahilig discussed with the Commission the chain of succession, when it was written the language of when the Mayor is outside of the County was when there were no cell phones, inter-island travel was not as frequently available. In this day and age the interconnectedness of an individual who is charged with authority may not be as isolated as thirty to forty years ago. He directed the Commission to the first clause that is when the Mayor is out of the County. Pointed out that some other counties have it where to when the Mayor is out of State may be how to address this issue. There is a question whether the Deputy Finance Director is an appropriate move and may need to be clarified. Only having three firm individuals with the ability to assume continuity of</p>	

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	<p>government is a very small range of people if you're looking at the person being outside of the County of Kauai.</p> <p>Chair TenBruggencate recapped that the Commission could do nothing at all, or change County to State. He asked if Mr. Dahilig had any suggestions to continued list of succession.</p> <p>Mr. Dahilig replied that he would suggest it remain on the Administrative side, individuals with the breath of responsibilities, experience going in to the position, i.e. County Attorney vs. Transportation Director.</p> <p>Ms. Koga asked if the Mayor is out of state he can't be called and asked administrative questions.</p> <p>Chair TenBruggencate clarified that the Charter language is that someone else is in charge because he is physically not in the county.</p> <p>Mr. Dahilig shared that when the Mayor was in Japan, he was consulted on all calls that needed to be made on his behalf.</p>	<p>Ms. Sandblom moved to defer CRC 2019-19. Ms. Koga seconded. Motion carried 5:0</p>
	<p><u>CRC 2019-20 Discussion and possible action to introduce a Charter amendment creating a department of Environmental Services and Information Technology Department.</u></p> <p>Mr. Dahilig stated that Mayor Kawakami is aware that he is present to discuss the proposed amendments. He explained that the administration believes that county government needs to be redefined to reflect some of the demands that both of these things require. A more intention focus on Environmental Services as well as how we deliver and retain information and how that's prioritized. The Environmental Services needs to be done by Charter because it's folded in to the public works discussion. If look at Information Technology this needs the endorsement of the population and the electorate to support such an investment.</p> <p>Mr. Dahilig went on to share with the Commission that Kauai is the only County that has Solid</p>	

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	<p>Waste and Waste Water lumped into Public Works. What has changed is that engineering is no longer just simply running infrastructure and building it, it is also how you meet regulatory compliance. Solid Waste and Waste Water are high regulatory needy divisions. The amount of attention needed may not rise to the County Engineer to focus and be able to assure that the County remain in compliance.</p> <p>Mr. Dahilig then shared that the amount of investment the County is making in Information Technology is minimal in comparison to similar private sector corporations, dollar for dollar. The requirement for the County to be more customer focused, and take care of digital information and also provide interfaces for self-service is becoming more of a demand on government. Feels this needs to rise to the level of a department. It is currently in the Finance Department.</p> <p>Chair TenBruggencate shared that perhaps that they could move this to the Board of Water. The Commission discussed Solid Waste vs. Waste Water and how they are different and proposal to create its own Department.</p> <p>Bryan Wienand, Chief Engineer Department of Water stated he supports the proposal of creating an Environmental Services Department. Within Civil Engineering Water, Waste Water are separate disciplines. Looking at neighbor island structures is good to follow and focusing on regulatory compliances is something that is growing in scope and complexities. Makes sense to have Environmental Services with different divisions, i.e. Waste Water and Solid Waste. It is separate from potable, drinking water and would urge that they remain separate.</p> <p>Mr. Stack asked what the cost would be.</p> <p>Mr. Dahilig responded that at a minimum it would require two employees. Environmental Services Director, perhaps a Deputy, and at least a private secretary.</p> <p>Ms. Koga asked about the qualifications for the Directors and the minimum of 5 years is all that's needed.</p>	

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	<p>Mr. Dahilig responded that rather than focusing on a particular credential, someone who has a bachelor’s degree in political science, but has a Microsoft 1 certification and working in the field for fifteen years, might be better suited than someone coming out with a Master’s degree in IT.</p> <p>Chair TenBruggencate asked if there would be two deputies, one for solid waste and one for waste water, and if the subsections should be in the Charter.</p> <p>Mr. Dahilig responded that it’s not unprecedented, and the subsections should be left to be defined through the budget process or by ordinance.</p> <p>Ms. Sandblom asked if there was anything that precludes IT from doing the duties now.</p> <p>Mr. Dahilig responded that it is looking at county operations and bringing IT to a higher level of responsibility and investments, places it in higher prioritization.</p> <p>Mr. Wienand, shared the Department of Water is also making a similar push to invest in IT. When they completed their strategic plan it’s very much in-line with what was shared. They found that their staffing level was low and the investment made now shows a stronger benefit. IT was previously under administration, and they function independently and should be on it’s own.</p>	<p>Mr. Kawane moved to approve Environmental Services and forward for review by the Office of the County Attorney. Ms. Koga seconded. Motion carried 5:0</p> <p>Ms. Sandblom moved to approve IT Services and forward for review by the Office of the County Attorney. Mr. Stack seconded. Motion carried 5:0</p>
	<p><u>CRC 2019-21 Discussion and possible action to amend Charter qualifications for a County Engineer and Water Manager.</u></p> <p>Mr. Dahilig explained that these are looking at a balance of requisite knowledge and ability to lead and broadening the language, not necessarily removing requirements of a Registered Engineer. He</p>	

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	<p>discussed reasons of why</p> <p>Mr. Wienand shared that overall it is a challenge to find a right mixture, a starting with a field of licensed engineers automatically narrows the pool, but at the same time the licensure has value as it speaks to minimum proficiency and at the same time could look at restructuring where the delegated authority. Currently a technical person is being asked to do both technical and managerial work at a broad level. If possible it would be more effective to have a technical person focusing on technical matters and a separate person covering the managerial and leadership aspects, he would suggest that this would be more effective. He would caution removing the professional licensure entirely. He suggests at segregating the duties and looking at two highly technical positions rather than increasing the salary for Department of Water. Mr. Wienand stated that the licensure in Hawaii is only in Hawaii, there is no reciprocity. He clarified that the test is the same is in every state and the requirement should be for a Professional Civil Engineer's License so that it's not another layer for someone to navigate if they are applying from out of state.</p> <p>Dennis Esaki, Esaki Surveying, is against removing the engineering requirement. He doesn't believe it's mainly the salary that causes the lack of applicants. His new person does not make \$137,000 a year, and he has a Chief Engineer as he requires. Some of the requirements, political aspects, maybe an Administrative Services person could help.</p> <p>Vice Chair asked if the test changes so that it would be hard for someone who waits to take and pass the test.</p> <p>Mr. Esaki replied that the tests evolves and it's hard to remember things from college so it would be hard. He believes it is important for the head to have a license.</p> <p>Ms. Koga asked about whether it was because it's the title, County Engineer rather than Director of Public Works.</p> <p>Mr. Dahilig explained that currently the pool has to have the registered engineer as well as the managerial experience. Suggesting that the two are not necessarily exclusive. They do not want to eliminate the requirement of licensure, but want to also be able to look at people with the expertise,</p>	<p>Mr. Stack moved to defer CRC 2019-21. Mr. Kawane seconded. Motion carried</p>

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	but not the certification.	5:0
	<p><u>CRC 2019-22 For discussion and possible action Charter Review Commission Timeline 2020 for Charter Amendments.</u></p> <p>Chair TenBruggencate pointed out that they cannot take anymore new items after March as it takes two meetings.</p> <p>Ellen Ching, Administrator Boards and Commissions explained that staff looked at past calendar to draft this timeline. She has sent it to Council to review as well and she is waiting for response from Council.</p>	<p>Mr. Stack moved to receive CRC 2019-22. Ms. Sandblom seconded. Motion carried 5:0</p>
<b>Announcements</b>	<p>Next meeting: Monday, December 16, 2019, 3:00 p.m., in the Mo’ikeha Building, Meeting Room 2A/2B.</p> <p>Commission discussed changing meeting date from December 23, 2019 to December 16, 2019.</p>	<p>Ms. Sandblom moved to change the date of the next meeting to December 16, 2019. Mr. Kawane seconded. Motion carried 5:0</p>
<b>Adjournment</b>		<p>With no objection, Chair TenBruggencate adjourned the meeting at 5:31 pm.</p>

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

Reviewed and Approved by: \_\_\_\_\_  
 Jan TenBruggencate, Chair

- ( ) Approved as circulated.  
 ( X ) Approved with amendments. See minutes of 12/16/19 meeting.