

Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN MEETING SESSION

Approved as submitted on 4/25/2022.

Board/Commission:	CHARTER REVIEW COMMISSION	Meeting Date	MARCH 28, 2022
Location	Boards & Commissions Conference Room, Lihue Civic Center	Start of Meeting: 3:17 p.m.	End of Meeting: 4:38 p.m.
Present	Chair Lori Koga, Vice Chair Jan TenBruggencate. Commissioners: Virginia Kapali, Marissa Sandblom, Coty Trugillo. Also: Hugo Cabrera, Deputy County Attorney. Boards & Commissions Office Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti.		
Excused	Bronson Bautista, Reid Kawane		
Absent			
SUBJECT	DISCUSSION	ACTION	
	Commissioner Coty Trugillo was sworn into office prior to the meeting.		
A. Call To Order	Chair Koga welcomed new Commissioner Trugillo and said good-bye to Commissioner Kapali, thanking her for being a mentor to her.	Chair Lori Koga, called the meeting to order at 3:17 p.m.	
B. Roll Call		Roll Call: Commissioner Bautista-excused Commissioner Kapali- present Chair Kawane - excused Commissioner Sandblom- present Commissioner Trugillo-present Vice Chair TenBruggencate-present Chair Koga- present Quorum: 5 commissioners present	
C. Approval of Agenda		Vice Chair TenBruggencate moved to approve the agenda. Commissioner Sandblom seconded. Voice Vote: 5 Ayes, 0 Nays Motion carried 5:0	
D. Minutes	<u>Open Session Minutes of February 28, 2022</u>	Vice Chair TenBruggencate moved to	

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	<p>Chair Koga corrected errors in roll call for Vice Chair TenBruggencate, Chair Koga and Commissioner Kawane.</p>	<p>approve the minutes of February 28, 2022, as edited. Commissioner Sandblom seconded.</p> <p>Voice Vote: 5 Ayes, 0 Nays Motion carried 5:0</p>
<p>E. Public Testimony</p>	<p><u>None</u></p>	
<p>F. Communication</p>	<p><u>BOE 2022-07 Memorandum from the Chair and Members of the Salary Commission dated January 31, 2022, regarding a proposal to amend Article XXIX of the Charter allowing the Salary Commission authority to establish the maximum salaries of all elected and appointed officials.</u></p> <p>Chair Koga clarified that Chair of Salary Commission is Patrick Ono.</p>	<p>Vice Chair TenBruggencate moved to receive communication BOE 2022-07. Commissioner Sandblom seconded.</p> <p>Voice Vote: 5 Ayes, 0 Nays Motion carried 5:0</p>
<p>G. Business</p>	<p><u>CRC 2022-08 Discussion and possible action on the report of the Permitted Interaction Group (PIG). The purpose of the Permitted Interaction Group (PIG) is to provide a written recommendation on how and whether to create districting for our County Council.</u></p> <p>Chair Koga explained that per Sunshine Law today will be a presentation by the PIG and no discussion. At the next meeting they will be able to ask questions and have discussion.</p> <p>Commissioner Sandblom presented an overview of the PIG report and shared a</p>	

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	<p>few highlights. She stated that the PIG met four times and spent intensive amounts of time review in historical proposals, recent articles on districting and came up with nine (9) recommendations that can be found on page 14 of the document (on file). She entertained questions for clarity only.</p> <p>Chair Koga stated that the committee did an awesome job.</p> <p>Commissioner Sandblom commended Administrator Ching for her assistance in gathering information for review to get a better foundation on how to approach this proposal this time around.</p> <p>Commissioner Kapali clarified that this presentation is just to submit the report and that the public also has access to it as part of the agenda.</p> <p>Vice Chair TenBruggencate stated that the PIG reviewed the many proposals and issues around them and asked the ultimate recommendation to characterize a further look at this.</p> <p>Commissioner Sandblom stated that they did not want any proposal that is put out to have any unintended consequences, i.e., the recent special election that was not an intended outcome of the Charter amendment. She went on that the first recommendation of hiring a consultant came about as the PIG could not come to an agreement on what would be most beneficial for Kauai stating that in the report, for example, there are questions that they assumed wrongfully that based on public testimony that it might be cheaper to run an election if had districting, it might be more representative of the island geography and some of these have been proven false by the data.</p> <p>Commissioner Trugillo asked why the question of districting has come up and Commissioner Sandblom explained that public interest had sparked the need to look at districting proposals.</p>	

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	<p>Administrator Ching added that about two years ago she was approached by a member of the public to get a districting proposal on the ballot, she explained it was late in the process but asked the Chair and it was placed on the agenda, but the Commission at that time stated that they committed to get in back on the agenda the next time.</p> <p>Vice Chair TenBruggencate stated that different proposals have been on the ballot before and never passed and therefore it is back again. The Commission have looked at proposals several years and they could not agree on a proposal to take to the ballot. He went on to explain why the PIG was formed.</p> <p>Commissioner Kapali stated that in understanding the depth of all of this there needs to be more discussion on a proposed amendment to the ballot and thanked all that worked on it.</p>	<p>Vice Chair TenBruggencate moved to defer CRC 2022-08 to the next meeting for discussion. Commissioner Sandblom seconded.</p> <p>Voice Vote: 5 Ayes, 0 Nays Motion carried 5:0</p>
	<p><u>CRC 2020-17 Discussion and possible action on proposing a Charter amendment relating to Council Districting.</u></p> <p>Chair Koga asked if there were any members of the public that wanted to speak on this item.</p> <p>Mr. Burt Lyon, testifier, stated that he was impressed on the report of the PIG and thanked them for their work. He agreed that it is a difficult to make a decision right now, and to do it properly they should explore everything. He commented on the recommendations, i.e., Recommendation #1, he feels that a consultant is an excellent idea, and that Colin Moore from the UH (University of Hawaii) Public Policy department gave a presentation to Maui Charter Review Commission, and he thought that may be someone they'd want to consider. He added that if they choose the consultant that the consultant</p>	

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	<p>should determine the sample size and confidence interval. On Recommendation #3, on the pros and cons and equal worth of each persons vote, he feels is subjective. Regarding the concern of having a reapportion commission to ensure that there will not be a canoe district, he does not see how there could be one for Kauai, that it would be impossible, aside from Niihau that would not be possible. Recommendation #6 about starting with the 2016 ballot question which lost by 161 votes, the assumption that since it lost by such a small amount that it was a popular option. He believes that the Commission should look at the 2016 survey and look at two most popular make-ups which were five (5) district, two (2) at large and seven (7) district, zero (0) at large, which were 24% and 23% respectively. He went on to state that starting with the three (3) districts with the House of Representatives, he does not see a danger of a canoe district but that there would be a danger of the State having a canoe district and one of the districts would be short a certain number of votes whatever they would have on another island. He believes that sticking with number of State districts goes against the purpose of having districts which is smaller districts and have more concise representation.</p>	<p>Vice Chair TenBruggencate moved to defer CRC 2020-17 to next meeting. Commissioner Sandblom seconded.</p> <p>Voice Vote: 5 Ayes, 0 Nays Motion carried 5:0</p>
	<p><u>CRC 2022-09 Discussion and possible action on a proposal to amend Article XXIX of the Charter allowing the Salary Commission authority to establish the maximum salaries of all elected and appointed officials.</u></p> <p>Vice Chair TenBruggencate stated that he is generally in support of the Salary Commission’s recommendations on this.</p> <p>Administration Ching stated that the proposal is based on the ballot question that was on the 2018 ballot, exactly. She explained that the Salary Commission has difficulty every other year with the economic condition and that it does not make sense for them to put forward a salary resolution in an election year. They continue to struggle with salary conversions, union raises which department heads do not receive, vacancies and difficulty in hiring local. She pointed out that Kauai is the only County that the Salary Commission is</p>	

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	<p>not authorized to set the salaries. This is a way to address some of the issues. Commissioner Kapali added that when the Salary Commission gets together a salary resolution it must be approved by the County Council and when it reaches the Council agenda, it can be changed. She also explained that they Salary Commission does do a lot of research in determining salaries.</p> <p>Administrator Ching added that the Director of Finance and Human Resources are consulted, and reports are reviewed.</p> <p>Vice Chair TenBruggencate stated that unlike the other Kauai Commissions which are given a lot more power than other Counties give to citizen commissions except for Salary Commission, and he feels that giving them the authority fits within how we put our county government together.</p> <p>Administrator Ching and the Commissioners discussed the issues of Council voting to approve the salary resolution and how that can be an issue for the council members as it is perceived as them giving themselves a raise when in fact it is for the next elected council. As well as people not seeing that it is a maximum amount and that there is flexibility to offer less.</p> <p>Discussion of the ballot question being simple and legal.</p> <p>Chair Sandblom recommended that the question not have two parts as in the current question.</p> <p>Administrator Ching asked that the commissioners allow her and the Deputy County Attorney Cabrera work on the ballot question, purpose and background and get back to the commission.</p>	<p>Vice Chair TenBruggencate moved to approve CRC 2022-09 the Salary Commissions proposed Charter language and to hear from administrator for discussion. Commissioner Kapali seconded.</p> <p>Vice Chair TenBruggencate withdrew his motion.</p> <p>Vice Chair TenBruggencate moved to approve the recommendation of the salary commission with the deletion of references to ex-officio members and ask staff to review the proposal and bring back to Commission at the next meeting to review. Commissioner Kapali seconded.</p> <p>Voice Vote: 5 Ayes, 0 Nays</p>

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	<p><u>CRC 2022-05 Discussion and possible action on proposed ballot question, purpose, and background on Charter amendment to remove Article XXX relating to the Electric Power Authority.</u></p> <p><i>Vice Chair TenBruggencate recused himself at 4:16pm</i></p> <p>Administrator Ching shared that she and Deputy County Attorney worked on the ballot question, purpose, and background (on file) for the Commission to review.</p> <p>Commissioner Kapali clarified that this was looked at before but did not make the ballot in 2020.</p> <p>Administrator Ching clarified that it was on the ballot in 2018 and voted down, but that it is a housekeeping item, and she has asked the Commission to look at it again for the 2022 ballot and worked on the question to simplify it.</p> <p>The Commissioners and Administrator discussed the ballot question.</p> <p>Commissioner Kapali suggested, “Shall the Charter to remove Article XXX which gives the County Council...”</p> <p>Commissioner Sandblom suggested that the purpose of the amendment is to remove provisions in the Charter that will allow rather than will allow.</p> <p>Administrator Ching clarified that there will be a final vote on what will go on the ballot.</p>	<p>Motion carried 5:0</p> <p>Vice Chair TenBruggencate recused himself from this item, he is a member of the KIUC board.</p> <p>Commissioner Kapali moved to put the Charter amendment for removing Article XXX on the next ballot pursuant to tweaking language and getting purpose, and background with the County Attorneys and Administrator and made clearer and it be brought to the next meeting for final consideration. Commissioner Sandblom seconded.</p> <p>Voice Vote: 4 Ayes, 0 Nays</p>

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	<p><u>CRC 2021-08 Discussion and possible action on proposed ballot question, purpose, and background to amend Charter Section 9A.05. Vacancy in Office related to the Office of the Prosecuting Attorney.</u></p> <p><i>Vice Chair TenBruggencate returned to the meeting at 4:26pm</i></p> <p>Administrator Ching welcomed input on proposed language presented to Commissioners (on file).</p> <p>Commissioner Sandblom clarified that this amendment is to clarify that if there is a vacancy the first deputy will assume the position to the next election.</p> <p>Vice Chair TenBruggencate clarified that the 1st Deputy will serve until the next regular election cycle. He said that the last amendment was to fix the six-month gap with no guidance whatsoever, but then that created a new problem of a special election.</p> <p>Administrator Ching clarified that it is a 4-year term, and it could be less than 2 years.</p>	<p>Motion carried 4:0:1 recused</p> <p>Vice Chair TenBruggencate moved to make this proposed Charter amendment part of the 2022 general election to be reviewed at the final review. Commissioner Sandblom seconded.</p> <p>Voice Vote: 5 Ayes, 0 Nays Motion carried 5:0</p>
	<p><u>CRC 2021-04 Discussion and possible action on Charter Initiatives of interest.</u></p>	<p>Vice Chair TenBruggencate moved to receive item CRC 2021-04 and remove it from the agenda. Commissioner Kapali seconded.</p> <p>Voice Vote: 5 Ayes, 0 Nays</p>

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H. Announcements	<p>Next Meeting: April 25, 2022</p> <p>Administrator Ching announced that this is Commissioner Kapali's last meeting and thanked her for her service, and stated that she added so much to the commission.</p> <p>Commissioner Kapali thanked everyone for their work.</p>	<p>Motion carried 5:0</p>
I. Adjournment		<p>Hearing no objections Chair Koga adjourned the meeting at 4:38pm</p>

Submitted by: _____
 Anela Segreti, Administrative Specialist

Reviewed and Approved by: _____
 Lori Koga, Chair

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