

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission	Kaua'i Fire Commission	Meeting Date	September 3, 2019
Location	Mo'ikeha Building – Meeting Room 2A/B	Start of Meeting: 2:20 p.m.	End of Meeting: 3:03 p.m.
Present	Chair Chad Pacheco; Vice Chair Linda Kaauwai- Iwamoto (arrived at 2:20 p.m.); Commissioners: Thomas Nizo, Michael Martinez. and Alfredo Garces Jr. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Ellen Ching; Office of the County Attorney: Nicholas Courson; Fire Department: Deputy Fire Chief Kilipaki Vaughan;		
Excused	Commissioners Jen Chahanovich, Alfred Levinthol and <u>Alfredo Garces Jr.</u>		

SUBJECT	DISCUSSION	ACTION
Employees of the Month Recognition	Due to a lack of a quorum, the recognition for Employees of the Month recipients Firefighter Russell Vierra and Ocean Safety Officer III Chad Listman was presented prior to Chair Pacheco calling the meeting to order.	
Call to order		At 2:20 p.m. Chair Pacheco called the regular monthly meeting to order with four (4) members present to conduct business.
Chair's Comments and Announcements	Next regular monthly meeting – 2 p.m. Monday, October 7, 2019 at the Mō'ikeha Building, Meeting Room 2A/2B. Executive Session to follow.	
Approval or amend the Open Session Meeting Minutes	Chair Pacheco called for a motion to approve or amend the meeting minutes of August 12, 2019.	Vice Chair Kaauwai-Iwamoto moved to approve the meeting minutes of August 12, 2019 as circulated. Mr. Nizo seconded the motion. The motion carried 4:0.
Chief's Monthly Reports as of July 30, 2019	Deputy Fire Chief Vaughan gave a narrative on data that was reflected in his Monthly Reports highlighting the graduation ceremony for the 29 th recruit class set for 10:00 a.m. on Friday, September 27, 2019. He invited the Commissioners to attend. He pointed out that error in his	

	<p>Monthly Reports under community service, it shows that he is a volunteer with the Kaua‘i Police Activities League (KPAL) but he’s actually a volunteer with the American Youth Soccer Organization (AYSO).</p> <p>Chair Pacheco asked Deputy Fire Chief Vaughan if he could clarify whether or not the ocean safety lifeguards are able to enforce the Department of Land and Natural Resources (DLNR) rules by citing people on jet skis in an area that prohibits that type of activity to which Deputy Vaughan replied that the ocean safety lifeguards can only verbally warn people to stay out of the area where people are swimming. They cannot cite people because that type of enforcement falls under the jurisdiction of DOCARE, DOBAR and DLNR.</p> <p>In reviewing the budget, Mr. Martinez asked if the \$405,028.75 reflected in the budget report is slated to go back to the County’s general fund or is the Department expected to expend those funds before the current fiscal year ends Deputy Fire Chief Vaughan explained that the amount reflected in the budget is just a projection and is expected to excepted decrease, but every year whatever money is left does go back into the General Fund and the amount is reflected in the CAFR.</p> <p>Vice Chair Iwamoto asked how is the four ten hour working days affecting his people to which Deputy Chief Vaughan replied that so far everything seems to be working well with the roving patrol unit.</p> <p>Mr. Nizo asked if the trucks parked at the entrance of the bridge to Wainiha is permanent to which Deputy Chief Vaughan replied no, and explained that the vehicles were place there as a result of the bridge being closed for three consecutive nights due to heavy rain and to also provide fire or medical services to the residents who live across the bride who were unable to cross the bridge because of the heavy rains.</p> <p>Deputy Chief Vaughan asked Chair Pacheco if the Commissioners wanted a recap of the FRI Conference. Ms. Ching explained that because the item is not on the agenda she will ask staff to place the item on the Commission’s next month agenda. With no further questions, Chair Pacheco called for a motion to accept the Chief’s Monthly Reports.</p>	<p>Mr. Nizo moved to accept the Chief Reports. Mr. Martinez seconded the motion. The motion carried 4:0.</p>
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KFC 2019-12	<p><u>Presentation by Permitted Interaction Group No. 2 on recommendations regarding the selection of the semi-finalists for the Fire Chief’s position. (Deferred on 8/12/2019)</u></p> <p>Chair Pacheco called for a motion to defer the matter. He indicated that although the Commission has begun the hiring process, the Group is not ready to present recommendations, but will be able to do so at the Commission’s special meeting on September 16, 2019.</p>	<p>Mr. Nizo moved to defer item KFC 2019-12 to the Special meeting scheduled for Monday, September 16, 2019. Mr. Martinez seconded the motion. The motion carried 4:0.</p>
KFC 2019-13	<p><u>Presentation by Permitted Interaction Group No. 3 on recommendations regarding written and oral questions for the Fire Chief candidates. (Deferred on 8/12/2019)</u></p> <p>Chair Pacheco called for a motion to defer the matter until after Group No. 2 presents its recommendations to the Commission for deliberation and decision-making at a subsequent meeting.</p>	<p>Mr. Nizo moved to defer item KFC 2019-13 until after PIG No.2 present its recommendations. Vice Chair Kaauwai-Iwamoto seconded the motion. The motion carried 4:0.</p>
KFC 2019-14	<p><u>Communication dated July 3, 2019 from Vice Chair Jan TenBruggencate, Charter Review Commission to Chair Pacheco and members of the Fire Commission requesting any proposals to amend the Kaua’i County Charter.</u></p> <p>Mr. Nizo asked if the language in the Fire Chief’s job description needed to be included in the Charter to which Deputy County Attorney Forrest replied that it’s not necessary, but if the Commission wants to it should propose the amendment to the Charter Review Commission for consideration.</p> <p>Mr. Nizo asked what type of language should the Commission propose to the Charter Review Commission. Ms. Ching indicated that the Commission could use the same language found in the Fire Chief’s job description, but the Commission should keep in mind that it will be up to the Charter Review Commission to come up with the exact wording, if they choose to consider the Fire Commission’s proposal to amend the Charter.</p> <p>Chair Pacheco stated that he would like to suspend the rules to give Councilmember Cowden a chance to testify on the matter.</p> <p>Councilmember Cowden stated her name for the record. She humbly and respectfully asked the Commission to consider any one of the two options to amend the Charter by citizen petition or</p>	

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	<p>through the County Council. She noted that if the Commission choice is to go with option number two she would be very honored to bring the matter to the Council on the Commission's behalf.</p> <p>She testified that the Charter Review Commission was designed so that any changes to the Charter could be thoroughly vetted and during Mayor Bryan Baptiste tenure they started the Charter Review Commission to have something larger similar to a general plan update because the sugar plantations had closed and the County was faced with more responsibilities than it has ever had and the Charter was weak in that respect. The Charter Review Commission was slated to sundown after ten years, but it never happened and all of the Charter changes going forward were led by staff of the County.</p> <p>When people work in complete good faith like the Fire Commission as volunteer's people will come up with what they may seem is a good idea and they have a really beautiful discussion on it, but it's not televised. The Charter Review Commission meeting is not televised so they don't get to hear from a diverse community. She testified that out of the sixty-six proposed amendments, sixty-five passed and all sixty-five came from the Charter Review Commission, which is dis-proportioned and is not a very good system. Preferably, she herself would like to be able to bring the matter to Council so they can vet it because there a lot of minimum qualifications in a number of the County's departments that have been set in place not by Council (sometimes) but it's been very hard to fill those positions. There are a lot of other elements that are important in the qualifications. For example, a fire chief position, we really need the person to have some knowledge of the island and although it was the best of intention of the five to seven people who were there on the Charter Review Commission to study it quickly in advance and may be with much diligence as they can, it's not the same thing as putting it in front of the public; putting it before a number of people who have a lot of experience and the Council.</p> <p>She did agree that it was more troublesome to bring the matter before Council, but she's confident that Council will do a better job because there needs to be checks and balances. She believes that it is a misuse of what the Charter Review Commission was initially intended for. It was meant to sundown, but they perpetuated themselves.</p>	

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	<p>She referred to the State Constitution and the United States Constitution saying that if a small group with power was ever allowed to manipulate the Constitutions that would be unheard of; no matter how much integrity the group may have. She agreed that reviewing job positions are important, but believes that the Council is a better place to do that. She ended her testimony by reiterating her request that the Commission allow her to do bring the matter up to Council and as the Chair of the Public Safety Committee she would willing to work with the Fire Commission and the Fire Department to put on there so everyone can have a good system in place.</p> <p>Chair Pacheco thanked Councilmember Cowden for her testimony.</p> <p>Ms. Ching explained to the Commission the letter's intent and if the Commission wanted to submit a charter amendment proposal it may do so, but if the Commission is not interested staff could notified Chair Tenbruggecate and tell him that the Fire Commission is not interested in submitting proposal at this time or is interested. To Councilmember Cowden's verbal request to bring the matter to Council it up to the Commission to a make as to what direction it would like to go.</p> <p>Mr. Nizo asked hypothetically if the Fire Commission was to accept the Charter Review Commission's invitation to submit a charter amendment proposal for consideration would the Commission's proposed amendment have to go to Council for review or is the Charter Review Commission autonomous. Ms. Ching explained that in the event that Commission deems the changes are necessary or desirable, the Commission may propose amendments to the existing charter and submit it to the county clerk. The county clerk shall provide for submission of such amendments to the voters at any general and or special election as may be determined by the Commission.</p> <p>Mr. Nizo asked Deputy County Attorney Forrest for his input on the matter. Mr. Forrest stated that there seems to general confusion. Right now, there is no requirement in the charter that the Fire Chief have a degree; the Commission; however, decided otherwise by saying a person can have experience in lieu of a degree. As the appointing authority for the Fire Chief, the Fire Commission has the authority to hire a Fire Chief so it can include in the job posting to have a degree or not but right now, it's just a preferred category and is not required. If the Commission</p>	

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	<p>was to put that stipulation in the charter that's taking power away from the Commissioners as a Commission. Right, now, the Commission's objective is not to have it and the requirement is already being met by the current charter. He added that anytime the Commission decides to hire a Fire Chief, the Commission can redo the job posting as it see fit. He stated that the letter is just an invitation and the Commission doesn't necessary needs to have an amendment for this particular matter.</p> <p>Mr. Martinez asked if changing the charter is going to delay the hiring process to which Ms. Ching replied no, and explained that any new charter amendment majority of the voter's vote in will come into effect after the general election.</p> <p>Chair Pacheco stated that requiring a person to have a college degree in the charter would hamper potential internal candidates in the Kaua'i Fire Department from applying for the Fire Chief's position. With no further discussion, Chair Pacheco called for a motion to decline the CRC invitation to submit charter amendment proposals.</p>	<p>Mr. Nizo moved to decline the Charter Review Commission's request for submit proposals to amend the Charter. Mr. Martinez seconded the motion. The motion carried 4:0.</p>
<p>KFC 2019-15</p>	<p><u>Discussion and decision-making on the Permitted Interaction Group recommendations on Amending the Fire Chief's Job posting that was presented by the group at the Commission's meeting on July 1, 2019.</u></p> <p>Ms. Ching explained that at the last meeting, the Commission reviewed and discussed the recommendations on amending the Fire Chief's job posting; however, HR suggested a few of changes.</p> <ul style="list-style-type: none"> • Post the max salary and delete the old max salary and "effective July 1. Since the date had already passed. • Add "For additional information about the position, visit the County of Kaua'i website at: https://www.kauai.gov/Human Resources. • Add HR's phone number (808-241-5969) and email address hrrecruitment@kauai.gov. <p>Chair Pacheco called for a motion to accept the Group's recommendations including HR's recommendations.</p>	<p>Mr. Nizo moved to accept the Group's including the Department of Human Resource changes to Fire Chief's job posting as presented. Mr. Martinez seconded the motion. The motion carried 4:0.</p>

SUBJECT	DISCUSSION	ACTION
KFC 2019-16	<p><u>Discussion and decision-making on the Permitted Interaction Group No.1 recommendations on amending the Fire Chief's Job Description that was presented by the group at the Commission's meeting on August 12, 2019.</u></p> <p>Chair Pacheco called for a motion to approve and accept the Group's recommendation on amending the Fire Chief's job description to include under Other Desirable Qualifications:</p> <ul style="list-style-type: none"> • Possession of a Bachelor's Degree in Fire Science,-Fire Administration, Public Administration, or Business Administration, or in lieu of a bachelor's degree years of experience as a Deputy Fire Chief, Assistant Chief, Fire Captain and Battalion Chief will also be considered. 	<p>Mr. Nizo moved to approve and accept the Group's recommendations on amending the Fire Chief's job description. Mr. Martinez seconded the motion. The motion carried 4:0.</p>
Executive Session	<p>Pursuant to Hawai'i Revised Statutes §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the Commission to discuss the hiring of a new Fire Chief and other Related matters where consideration of matters affecting privacy will be involved, and to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities as they may relate to this agenda item. (On-going)</p>	No Executive Session
Adjournment	<p>With no further business to conduct, Chair Pacheco called for a motion to adjourn the meeting.</p>	<p>Mr. Nizo moved to adjourn the meeting. Mr. Martinez seconded the motion. The motion carried 4:0.</p> <p>At 3:03 p.m. the meeting adjourned.</p>

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Chad Pacheco, Chair

- () Approved as circulated on
(x) Approved as amended. See minutes of October 7, 2019 meeting.