

COUNTY OF KAUAI  
Minutes of Meeting  
OPEN MEETING SESSION

**Approved: March 25, 2024**

Board/Commission:	<b>CHARTER REVIEW COMMISSION</b>	Meeting Date	<b>January 22, 2024</b>
Location	Microsoft Teams, Boards & Commissions Conference Room, Lihue Civic Center	Start of Meeting: 3:05 p.m.	End of Meeting: 5:08 p.m.
Present	Chair Bronson Bautista. Commissioners: Reid Kawane (via Microsoft Teams), Lori Koga, Marissa Sandblom, Jaclyn Kaina, and Jan TenBruggencate. Also: Charles Foster, Deputy County Attorney. Boards & Commissions Office Staff: Administrator Ellen Ching, Clerk Arleen Kuwamura.		
Excused	Vice Chair Coty Trugillo		
Absent			

SUBJECT	DISCUSSION	ACTION
	<i>Prior to call of order the Oath of Office for mayoral appointee, Jan TenBruggencate serving partial term ending 12/31/25 was completed.</i>	
<b>A. Call To Order</b>		Chair Bronson Bautista, called the meeting to order at 3:05 p.m.
<b>B. Roll Call</b>		Roll Call: Commissioner Kaina -present Commissioner Kawane -present and alone Commissioner Koga – present Commissioner Sandblom- present Commissioner TenBruggencate-present Vice Chair Trugillo -excused Chair Bautista - present. Quorum: 6 Commissioners present
<b>C. Election of Officers</b>	<u>CRC 2023-10 Election of Chair and Vice Chair for 2024 Calendar year.</u>	Chair Bautista called for nomination of 2024 Chair.  Commissioner TenBruggencate nominated Coty Trugillo for Chair. Commissioner Kaina seconded.

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	<p><i>Vice Chair Kaina assumed Chair of the Commission at 3:17 pm</i></p>	<p>Commissioner TenBruggencate moved to close the nomination for the 2024 Chair.</p> <p>Voice Vote: 6 Ayes, 0 Nays Motion carried 6:0.</p> <p>Chair Bautista called to close the nomination for Chair and asked for a voice vote on the nomination for Coty Trugillo for 2024 Chair.</p> <p>Voice Vote: 6 Ayes, 0 Nays Motion carried 6:0.</p> <p>Chair Bautista called vote for nomination of 2024 Vice Chair.</p> <p>Commissioner Koga nominated Jaclyn Kaina for Vice Chair. Commissioner Kawane seconded.</p> <p>Voice Vote: 6 Ayes, 0 Nays Motion carried 6:0.</p> <p>Chair Bautista called to close the nomination for Chair and asked for a voice vote on the nomination for Jaclyn Kaina for 2024 Vice Chair.</p>

SUBJECT	DISCUSSION	ACTION
		<p>Commissioner Kawane motion to close the nomination for Vice Chair. Commissioner TenBruggencate seconded.</p> <p>Voice Vote:            6 Ayes, 0 Nays            Motion carried 6:0.</p>
<p><b>D. Approval of Agenda</b></p>	<p>Chair Bautista moved on to approval of the agenda.</p> <p>Administrator Ching advised Item #4 CRC 2023-07, be taken out of order as the insurance broker, Mr. William Sandkuhler, was present for presentation.</p>	<p>Commissioner TenBruggencate moved to take Item #4 out of agenda order. Commissioner Sandblom seconded the motion.</p> <p>Voice Vote:            6 Ayes, 0 Nays            Motion carried 6:0.</p>
<p><b>H. Business</b></p>	<p><u>CRC 2023 -7 Discussion and Possible action on County Attorney’s proposal RE: Removal of Requirement for Surety Bonds in Charter Section 19.7.</u></p> <p>Administrator Ching welcomed the insurance broker William Sandkuhler to provide information to the Commission. The Deputy County Attorney, Charlie Foster provided a handout to the Commission.</p> <p>Mr. Sandkuhler testified that two years ago, Reiko Matsuyama, the finance director, and the Kauai County Attorneys' Office approached him to obtain his opinion on the necessity of bonding for employees who are managing money.</p> <p>His investigation uncovered other issues with the system in addition to the fact that this kind of bounding was not easily accessible in the</p>	

SUBJECT	DISCUSSION	ACTION
	<p>market. The Commercial Crime Policy, which covers employee theft, is popular among public entities. It offers comprehensive coverage for various types of fraud. However, unlike Surety Bonds, which require bonding for each employee, the Commercial Crime Policy offers a wider scope of coverage, less administrative work, and a premium cost. Bonding also has room for error, making it less efficient for conducting business. Commercial Crime Policy offers greater coverage and less administrative work than Surety Bonds Employee Insurance. However, Surety bonds require individual bonding for employees handling money, have a limit of less than five million dollars, and have a premium cost of \$200.00 per employee.</p> <p>Mr. Sandkuhler emphasized the Charter's need for a financial resource to protect County assets from misappropriation, recommending the Commercial Crime Policy as the best option, citing its superior coverage, broader coverage, and excellent limits.</p> <p>The Commission inquired as to how the current process for Surety Bonds operated in the event of a loss and how it varied regarding county reimbursements.</p> <p>Mr. Sandkuhler claims that for the county to be granted a bond, it must provide proof that the employee committed a crime (i.e., misappropriated money). Crime policy would follow the same guidelines. Method: 1) Submit a claim to the insurer, AIG. 2) Disseminate information about the occasion. 3) Ask them to revise their assertion. The procedure used to handle a claim is not all that different.</p> <p>Commissioner TenBruggencate inquired, in addition to what you have stated, the Commission also deliberated about possible warning signs and product preferences. Since those were the reasons people rejected it in the</p>	

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	<p>previous elections, those are the questions they are putting out there. The important question was why the people rejected it. The Commission emphasized how important it is to make statements to reassure voters that the change is for the better.</p> <p>Mr. Sandkuhler reiterated the benefits and the extent of coverage, emphasizing that the strongest defense was the County's capacity to pay a \$14,000 premium for five million dollars in limits. He pointed out that multiple people who oversee finances on the County's behalf would have larger overall surety bonding for far lower coverage amounts. The Commercial Crime Policy is a more up-to-date form of coverage that is significantly better than a bond.</p> <p>At the most recent meeting, Administrator Ching requested clarity of the Commissioners' perception of the proposed revised preciously, which they understood to be a general policy covering all County employees. I inquired as to its truth.</p> <p>Mr. Sandkuhler repleid yes.</p> <p>This, according to Administrator Ching, is a major divergence from Surety Bonds, which require employee identity, declaration, and bonding. Correct? Mr. Sandkuhler responded correctly. He stated that was a perfectly valid concern, given that the Crime Policy does not call for a list of particular employees—rather, it only needs persons to work for the County of Kauai.</p> <p>Commissioner Sandblom expresses incorrect understanding regarding the belief held by some members of the community that the Surety Bond served the employees' best interests by shielding them from misconduct. Mr. Sandkuhler said that because it was against social policy to insure</p>	

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	<p>someone for a crime, the Bond would not shield the employee who had committed a crime. The bond would act to restore the County's integrity, but it would not shield a worker.</p> <p>Administrator Ching took note of unclear and varied commissioners' and public comments. There were three main concerns: 1) that it would not provide the same level of coverage as a bond; 2) that it would be taken away from employees; and 3) that people did not seem to grasp. Ms. Ching recommended that the Commission first establish a case by emphasizing the distinction between the Crime Policy and a Surety Bond. There were three main concerns: 1) that it would not provide the same level of coverage as a bond; 2) that it would be taken away from employees, and 3) that people did not seem to grasp.</p> <p>Ms. Ching suggested that the Commission first make its case by highlighting how a Surety Bond differs from a Crime Policy. The problem with the wording of the Charter, as Mr. Sandkuhler pointed out, is that it does not specify the kind of bond, although there are numerous kinds of bonds.</p> <p>Commissioner Kawane wanted to know how much the premium was.</p> <p>Mr. Sandkuhler clarified that the premium cost amount was provided based on an application that included risk variables and several financial checks and balances rather than personnel counts. The Government Commercial Crime Policy is the insurance's official name.</p>	<p>Commissioner TenBruggencate moved to ask staff to prepare a ballot question, background, and purpose languages and return it to the Commission for review. Commissioner Koga seconded.</p> <p>Motion carried 6:0</p>
	<p><u>CRC 2024 – 04 Discussion and possible action on proposed Charter Amendments to Section 24.03 proposed by the public to create an ex-officio position on the Charter Review Commission for youth.</u></p>	<p>Commissioner TenBruggencate moved to take Item #5 CRC -2024-04 out of order as La’akea Chun was present. Commissioner</p>

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	<p>For the record, Administrator Ching stated that at the most recent meeting, the Commission asked the County Attorney to inquire into the possibility of moving forward with this proposal.</p> <p>The handout outlining the suggested revisions to the amendment that came into conflict with Section 23.02 was reviewed by Charlie Foster, Deputy County Attorney, with the Commission. The proposal, titled "Boards and Commission amendment," features several clauses that raise questions on how the change would be implemented. As an illustration, 1) Each commissioner must be a qualified county resident elector. 2) Despite the Commission's amendment designating it as a non-voting post, there are still concerns regarding quorum. Unanswered questions still exist. All the issues that Mr. Foster discovered and included in this handout are compliant.</p> <p>"The original amendment officially the mayor may appoint one ex-officio student member aged 17 yrs. to 18 yrs. to serve on the Charter Commission," he added after reading the text. He continued, saying, "Provided that such ex-officio student member shall serve a term of one year or whatever the proposal would be, despite any other terms of this Charter. They won't have to meet certain requirements to be eligible to vote on commission-related issues, they won't be counted as members the commission is entitled to for quorum purposes, and any vacancy in the ex-officio member seat won't necessitate the appointment of a replacement. He pointed out that the final sentence, which covers the section about the commissioners' three absences and quorum concerns, was added. That mechanism is relieved by this.</p> <p>Commissioner TenBruggencate requested more information regarding students taking part in executive sessions and sitting at the table but not voting ballots.</p>	<p>Bautista seconded.</p> <p>Motion carried 6:0.</p>

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	<p>Mr. Foster said he hadn't given that much thought yet. He made it clear that while they would participate, they would not be responsible for all of the other members' obligations. Additional discussions would be welcome concerning the executive session.</p> <p>The commission continued discussing the positions and responsibilities of young student members, concluding that a serving student would be considered an officer and an unpaid employee of the county. The commission deliberated about how the academic year will affect the students' service and their experience. Ms. Ching questioned whether the part referring to the three years had the potential to be changed. The Council would have to ratify this position.</p> <p>La'akea Chun, Senior at Kawaikini, gave background information to the new commissioner regarding her interest and the driving force in consistently pursuing the creation of an ex-officio youth position to serve on the Charter Review Commission. 1) It started as a senior project. 2) student awareness, education, and participation in government, and 3) youth voice on Open Space Commission.</p> <p>Commissioner Sandblom provided background on this and expressed gratitude to La'akea for embracing and implementing the commission's suggestions and directives. The reason this plan is at this point in its development is that La'akea has remained persistently motivated. The Commissioners appreciate the chance to hear from young people. The Commission emphasized the advantages and readiness that teenagers may obtain outside of teacher supervision, such as civics instruction, youth involvement, and a platform that allows young people to be ready for their role in this youth position. La'akea emphasized there should be no limitations on the types of school students attended and this should be offered to all qualified students who were interested in serving.</p>	



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	<p>Ms. Ching recommended speaking with the County Attorney about the ex-officio term phrase and whether it might be removed. Commissioner Sandblom requested more information regarding the definition of age and when it is considered "youth." Commissioner Bautista gave his opinions on how to develop this position in a way that is fundamentally positive. A long debate on maintaining the student member's status for the future came up. Every commissioner concurred that having students on their commissions would be beneficial for our community.</p> <p>Commissioner TenBruggencate suggests making things cleaner instead of inserting another paragraph over the years into each Commission in the Charter, there would be value in having a student member section in the Charter to which one could initially refer.</p>	<p>Commissioner TenBruggencate moved to ask the County Attorney's Office to prepare language that presents this information with the addition of Kauai residents, take off one year term, all schools, and insert executive session.          Commissioner Kawane seconded.          Motion carried 6:0.</p>
<p><b>E. Minutes</b></p>	<p><u>Open Session Minutes of December 04, 2023</u></p> <p>Vice Chair Kaina entertained a motion to approve the minutes of December 04, 2023.</p>	<p>Commissioner TenBruggencate moved to approve the minutes of December 04, 2023.          Commissioner Koga seconded.          Motion carried 6:0.</p>
<p><b>F. Public Testimony</b></p>	<p><u>None</u></p> <p>Administrator Ching noted for the record that there was no testimony received and that there were no testifiers present to testify on specific items.</p>	
<p><b>G. Communication</b></p>	<p><u>None</u></p> <p>Administrator Ching noted for the record that there was no Communication.</p>	

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<p><b>H. Business</b></p>	<p><u>CRC 2024-01 Discussion and possible action on ballot question, purpose, and background on proposed Charter Amendment to Sec. 11.03(C). as proposed by the Police Commission.</u></p> <p><i>4:19 pm Commissioner Kawane left the meeting.</i>  <i>4:21 pm Commissioner Kawane returned to the meeting.</i></p> <p>Administrator Ching and the Commission reviewed the first proposed draft ballot questions and background and purpose.          Commissioner TenBruggencate stated he drafted the language and was not sure if he agreed with what they were requesting. His current understanding is “justice delayed is justice deferred” or something like that. The current language states the 90-day -clock does not start until after the investigation is finished due to the hiring of an investigator which can take time. If it lapses continuously for 5 years, the clock never stops. He questioned a solution.          Commissioner Sandblom commented at the last meeting that the question came up regarding the Commission's concerns with the timeline. Timeline concerns; 1) higher profile investigations had more to sort through. 2) process hiring of off-island investigators. 3) frequency of meetings held and getting it on the agenda timely based on the current interpretation.          Administrator Ching addressed the initial reasoning for the discussion of litigation due to confusion surrounding the 90 days and when the complaint takes effect. Clarification questions regarding when the time clock starts; 1) When the commission receives the complaint, is that when it starts? 2) or when a complaint is initially filed, is that 90 days? Right</p>	

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	<p>now, many filing periods could be the starting of the 90 days which currently makes it confusing to all parties.</p> <p>She explained the start process; 1) the commission orders an investigation typically when it is deemed serious and there are a multitude of issues that have arisen. This happens rarely, maybe twice per year. 2) The timing of the procurement process for an investigator is long. Administrator Ching clarified the procurement process took the longest not the lagging of the investigator or the commission, and noted the Police Commission's preference is to have the investigators report in 30 days. She emphasized the procurement process makes it impossible. The commission discussed the length of time, language on the ballot, and the number of variables that could help or hinder the time process of the investigation and explored possible start times. However, this is about clarifying when the 90 days start.</p>	<p>Commissioner Sandblom moved to refer to staff to clarify the ballot question.          Commissioner TenBruggencate second.</p> <p>Motion carried 6:0</p>
	<p><u>CRC 2024-02 Discussion and possible action on ballot question, purpose, and background on proposed Charter Amendments Section 28.05 as proposed by Cost Control Commission.</u></p> <p>Commissioner TenBruggencate suggested changing the ballot question wording to "Shall the Cost Control be authorized to recommend increased costs if they "are expected to" generate "future" cost savings or efficiencies later?"</p> <p>He noted there may be situations the commission is expected to but cannot guarantee it. Administrator Ching added the word "future."</p> <p>The Commission discussed how the recommendations of the Cost Control Commission may include increasing or creating revenue sources that can over time help to decrease costs for the County. The example of "Golf fee increases" and past recommendations and processes the Cost Control Commission made. Administrator Ching noted her research on the past</p>	

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	<p>three years' recommendations that Cost control has made was to increase fees.</p> <p>Attorney Foster’s answer to the commission's question regarding the ballot language satisfying Cost Control with increasing cost was no. He read the current language as it is written now without the background and defined the language as “We are going to invest in infrastructure now, that later will save the county money” That is his legal interpretation of the current language. However, if the commission was happy with the language now, it was okay. After all, it would not change much because it was reasonable to spend upfront to save later.</p> <p>Two recommendations currently on the draft report are 1) waive credit card fees to encourage people to pay taxes online. Attorney Foster stated that fits language “an increased cost to realize savings or efficiencies later.”</p>	<p>Commissioner TenBruggencate moved to refer to staff for review of the final ballot question language changes and for the removal of the word “later” to be replaced with “future” and edition of the word “expected to. Commissioner Koga second.</p> <p>Motion carried 6:0</p>
	<p><u>CRC 2024-03 Discussion and possible action ballot question, purpose, and background on proposed Charter Amendment to Article XIX, Section 19.15(C) as proposed by the Public Access, Open Space and Natural Resources Preservation Fund Commission.</u></p> <p>Chair Kaina stated the Open Space Commission would decide how 5% of the funds gets allocated and that 5% of \$2,000,000 is \$100,000. The commission discussed the process of how an organization could access funds. And how the nonprofit organization could access funds for supplies such as paints, wood, shovels, and other items needed to support the maintenance and stewardship of the property.</p> <p>Commissioner TenBruggencate pointed out that organizations would be able to spend up to 5% and not necessarily guaranteed 5%.</p>	

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	<p>Administrator Ching clarified that every year \$100,000 gets added to the fund but that does not mean \$100,000 gets spent every year. The funds accumulate and whatever amount is in the fund the 5% will be based on. Open Space Commission has criteria for approving purchasing easements. A critical piece is stewardship of the easement which has been hard to acquire because they want a stewardship agreement in place. It has been hard to attract organizations who would adopt these easements. So, these funds will benefit from getting organizations to commit as stewards if they hand these supportive funds for supplies.</p>	<p>Commissioner TenBruggencate moved to refer to staff. for review of Commissioner Koga second.</p> <p>Motion carried 6:0</p>
	<p><u>CRC 2023-09 Discussion and possible action on proposed Charter amendments for 2024 ballot.</u></p> <p>Commissioner TenBruggencate brought up the topic of some community interest in districting. The Commission had a brief discussion on the topic and other concerns council members had regarding voting. Administrator Ching noted the dateline had passed for new proposals and the commission is entering its final stages and not accepting them anymore.</p>	
<b>H. Announcements</b>	Next Meeting: February 26, 2024	
<b>I. Adjournment</b>		Hearing no further business Chair Kaina adjourned the meeting at 5:08 p.m.

Charter Review Commission  
Open Session  
January 22, 2024

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Submitted by: \_\_\_\_\_  
Arleen Kuwamura, Commission Clerk

Reviewed and Approved by: \_\_\_\_\_  
Jaclyn Kaina, Vice Chair

Approved as circulated.

Approved with amendments. See minutes of \_\_\_\_\_