

Marissa Sandblom  
Chair  
Jan TenBruggencate  
Vice Chair

Commissioners:  
Virginia Kapali  
Carol Suzawa  
Patrick Stack  
Lori Koga  
Reid Kawane

**COUNTY OF KAUA'I CHARTER REVIEW COMMISSION  
NOTICE OF TELECONFERENCE AND AGENDA**

**Monday, June 22, 2020  
3:00 p.m. or shortly thereafter**

**Microsoft Teams Audio: +1 469-848-0234, Conference ID: 687 886 093#**

**This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.**

**CALL TO ORDER**

**ROLL CALL**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES**

Open Session Minutes of May 18, 2020

**PUBLIC TESTIMONY**

**COMMUNICATION**

CRC 2020-14            Memorandum received on June 2, 2020 from Felicia Cowden, Councilmember, regarding a request for Ellen Ching, Boards and Commissions Administrator, to provide a briefing on the proposed amendments to the Kaua'i County Charter to the County Council at the June 17, 2020 Committee of the Whole Meeting.

CRC 2020-15            Confidential communication from Deputy County Attorney Teresa Tumbaga relating to CRC-2019-05 proposing an amendment to Charter Section 11.04 relating to the minimum requirements for the position of Chief of Police.

**BUSINESS**

CRC 2020-16            Update and discussion on response to Councilmember Cowden's request for a briefing on proposed Amendments to the Kaua'i County Charter.

CRC 2020-17            Discussion and possible action on proposed Charter amendment relating to Council Districting.

CRC 2020-18 Discussion and possible action on a Commentary by Commission to The Garden Island Newspaper.

CRC 2020-13 Discussion and possible action on plan for public education.

### **ANNOUNCEMENTS**

Next Meeting: Monday, July 27, 2020, 3:00 p.m., by teleconference

### **ADJOURNMENT**

### **NOTICE OF EXECUTIVE SESSION**

Pursuant to Hawai'i Revised Statutes §92-7(a), the Commission may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). Discussions held in Executive Session are closed to the public.

ES-024 Pursuant to Hawai'i Revised Statutes (HRS) §92-4, §92-5 (a) (4), the County Attorney will provide a briefing, discussion, and consultation regarding proposed amendment to Charter Section 11.04 relating to the minimum requirements for the position of Chief of Police.

cc: Deputy County Attorney Teresa Tumbaga

*An Equal Opportunity Employer*

### **PUBLIC COMMENTS and TESTIMONY**

#### **SPEAKER REGISTRATION**

**Prior to the Day of the Meeting:** Persons wishing to testify are requested to register their name, phone number, and agenda item via email at [asegret@kauai.gov](mailto:asegret@kauai.gov); or by calling 808-241-4917.

**On the Day of the Meeting:** Persons who have not registered to testify by the time the Commission meeting begins will be given the opportunity to speak on an item following oral testimonies of registered speakers.

Each speaker is limited to a three-minute presentation on each item.

#### **WRITTEN TESTIMONY**

**Prior to the Day of the Meeting:** Testimony may be emailed: [asegreti@kauai.gov](mailto:asegreti@kauai.gov) faxed: 808-241-5127, or mailed: County of Kauai, Office of Boards and Commissions, Board of Ethics, 4444 Rice St., Ste. 300, Lihue, HI 96766.

**SPECIAL ASSISTANCE**

**IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR [ASEGRETI@KAUAI.GOV](mailto:ASEGRETI@KAUAI.GOV) AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.**

**UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.**

**Draft to be Approved**

COUNTY OF KAUAI  
Minutes of Meeting  
OPEN SESSION

Board/Commission:	<b>CHARTER REVIEW COMMISSION</b>	Meeting Date	<b>May 18, 2020</b>
Location	Teleconference	Start of Meeting: 3:05 p.m.	End of Meeting: 3:27 p.m.
Present	Vice Chair Jan TenBruggencate. Members: Virginia Kapali, Lori Koga, Patrick Stack, Carol Suzawa, Reid Kawane. Also: Teresa Tumbaga, Deputy County Attorney. Boards & Commissions Office Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti.		
Excused	Chair Marissa Sandblom		
Absent			
<b>SUBJECT</b>	<b>DISCUSSION</b>		<b>ACTION</b>
<b>Call To Order</b>	Chair Sandblom is excused.		Vice Chair TenBruggencate called the meeting to order at 3:05 p.m.
<b>Roll Call</b>			Vice Chair TenBruggencate reviewed the list of participants on the teleconference and confirmed quorum with 6 commissioners present.
<b>Agenda</b>	Vice Chair TenBruggencate asked if any amendments to agenda.		Hearing none the agenda stood approved as submitted.
<b>Minutes</b>	Open Session Minutes of April 27, 2020 Open Session Minutes of May 11, 2020  Commissioner Kawane pointed out a discrepancy in the meeting end times at the top of the minutes and at the end.  Staff confirmed 4:24pm as end time for April 27, 2020 meeting, and 4:04pm for May 11, 2020 meeting.		Hearing no further amendments to the minutes and no objections, minutes were approved as amended.

SUBJECT	DISCUSSION	ACTION
<b>Public Testimony</b>	None. Vice Chair TenBruggencate requested to be notified should anyone from the public call in to the meeting.	No Action
<b>Business</b>	<p><u>CRC 2019-06 Discussion and possible action on proposed Charter amendment regarding Ethics Disclosure Statements Requirements, Section 20.04 (A).</u></p> <p>Vice Chair TenBruggencate called for a motion.</p> <p>Ellen Ching, Boards and Commissions Administrator, informed the Commission that the Union did not respond to the letter sent regarding the proposed Charter Amendment.</p> <p>Vice Chair TenBruggencate noted that the Commission can remove, prior to publication, amendments that they have approved if needed.</p>	<p>Commissioner Stack moved to approve CRC 2019-06 with associated materials presented in agenda packet. Commissioner Suzawa seconded.</p> <p>Roll Call Vote:          Commissioner Kapali-aye          Commissioner Kawane-aye          Commissioner Koga-aye          Commissioner Stack-aye          Commissioner Suzawa-aye          Vice Chair TenBruggencate-aye</p> <p>Motion carried, 6:0</p>

SUBJECT	DISCUSSION	ACTION
	<p><u>CRC 2020-13 Discussion and possible action on plan for public education.</u></p> <p>Ms. Ching reported to the Commission the requirements for Boards and Commissions to publish the full texts of the proposed amendments and it being done the last election in For Kauai and that staff is looking into that. She also shared that she will transmitting the approved proposed amendments to the County Council and will meet with them.</p> <p>Vice Chair TenBruggencate clarified that it will be transmitted to the County Clerk, because the County Council has no role in this.</p> <p>Ms. Ching agreed and went on to discuss the publication of the materials. She also discussed that she will be moving forward on a digital media public education piece if it is approved in the budget.</p> <p>Vice Chair TenBruggencate recalled that they got authority two years ago to publish a detailed report on the website and a shorter version in a publication.</p> <p>Ms. Ching confirmed that a detailed report will go on the County of Kauai website and summary in a publication not less than 30 days before the election.</p> <p>Vice Chair TenBruggencate asked about the involvement of Commissioners in public education.</p> <p>Ms. Ching stated that in the past Commissioners reached out to different community groups, but did not anticipate that this year due to the current state that we are in.</p> <p>Vice Chair TenBruggencate suggested that the Commission could possibly hold a Facebook event or go on with the Mayor during one of his daily briefings.</p> <p>Commissioner Kapali asked if this campaign will be the priority for the department budget.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Ching reported that she believes the budget item will survive. Commissioner Kawane asked about the media blitz.</p> <p>Ms. Ching explained that she's looking at targeting Kaua'i registered voters, any registered voter that got on their computer would be targeted for an ad.</p> <p>Vice Chair TenBruggencate asked about engaging the The Garden Island Newspaper at the lowest possible cost.</p> <p>Ms. Ching replied that they will be asked on their cost and whomever is lowest is who will publish.</p> <p>Vice Chair TenBruggencate volunteered to write a commentary and send out to Commissioners to review, amend and sign names to it and publish in The Garden Island. Vice Chair TenBruggencate asked that agenda item be placed regarding this on the next agenda.</p>	<p>No action. Item will be placed on next month's agenda.</p>
<p><b>Public Testimony</b></p>	<p>Vice Chair TenBruggencate asked if a caller had joined the meeting. Ms. Ching offered to call a member of the public that had asked for information to call into the meeting. Staff placed call.</p> <p>Vice Chair TenBruggencate reminded the Commissioners that if the caller suggested a Charter amendment that they would not be able to discuss it as it is not on the agenda. He would propose to put it on next meeting's agenda.</p> <p>Ms. Ching asked Teresa Tumbaga, Deputy County Attorney, to discuss what the Commission can and cannot do regarding a member of the public discussing an item not on the agenda.</p> <p>Ms. Tumbaga explained that the Commission is not required to permit members of the public to talk about items not on the agenda, but they do have discretion to allow it, but they cannot engage in discussion.</p>	<p>No action.</p>

SUBJECT	DISCUSSION	ACTION
	Staff received voice mail and left message that he could call in for next meeting.	
<b>Announcements</b>	Next meeting: Monday, July 27, 2020, 3:00 p.m., Teleconference	
<b>Adjournment</b>	Vice Chair TenBruggencate entertained a motion to adjourn.	<p>Commissioner Suzawa moved to adjourn.          Commissioner Kapali seconded.</p> <p>Roll Call Vote:          Commissioner Kapali-aye          Commissioner Kawane-aye          Commissioner Koga-aye          Commissioner Stack-aye          Commissioner Suzawa-aye          Vice Chair TenBruggencate-aye</p> <p>Motion carried 6:0</p> <p>Meeting adjourned at 3:27pm.</p>

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

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

- ( ) Approved as circulated.
- ( ) Approved with amendments. See minutes of \_\_\_\_\_ meeting.

**COUNTY COUNCIL**

Arryl Kaneshiro, Chair  
Ross Kagawa, Vice Chair  
Arthur Brun  
Mason K. Chock  
Felicia Cowden  
Luke A. Evslin  
KipuKai Kualii



**OFFICE OF THE COUNTY CLERK**

Jade K. Fountain-Tanigawa, County Clerk  
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188  
Facsimile: (808) 241-6349  
E-mail: [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov)

RECEIVED

JUN 02 2020

BOARDS & COMMISSIONS

**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

**MEMORANDUM**

May 28, 2020

**TO:** Ellen Ching, Boards & Commissions Administrator  
**FROM:** Felicia Cowden, Councilmember *Felicia Cowden*  
**VIA:** Arryl Kaneshiro, Council Chair *AK*  
**RE: REQUEST FOR A BRIEFING ON THE PROPOSED AMENDMENTS TO THE KAUA'I COUNTY CHARTER**

This is to request your presence at the June 17, 2020 Committee of the Whole Meeting to provide a briefing on all proposals to amend the Kaua'i County Charter. The list of proposals should include amendments that have been approved for the 2020 General Election ballot and amendments that the Charter Review Commission will consider placing on 2020 General Election ballot. Include in your briefing an explanation of the intent of each proposal, and the pros and cons for approving the proposed amendment.

Please extend an invitation to the Charter Review Commission members to participate in this discussion before the Committee of the Whole on June 17, 2020.

Should you have any questions, please feel free to contact me or Council Services Staff at 241-4188 or via E-mail to [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov).

cc: June 17, 2020 Committee of the Whole Meeting Agenda  
Michael A. Dahilig, Managing Director

CRC 2020-14



OFFICE OF BOARDS & COMMISSIONS  
THE COUNTY OF KAUA'I

DEREK S. K. KAWAKAMI, MAYOR  
MICHAEL A. DAHILIG, MANAGING DIRECTOR

ELLEN CHING  
ADMINISTRATOR

**MEMORANDUM**

DATE: June 9, 2019

TO: The Honorable Felicia Cowden, Councilmember  
VIA: The Honorable Arryl Kaneshiro, Chair

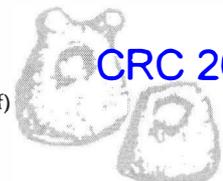
FROM: Ellen Ching, Boards and Commissions Administrator   
VIA: Michael Dahilig, Managing Director

RE: **REQUEST FOR A BRIEFING ON THE PROPOSED AMENDMENTS TO THE KAUA'I COUNTY CHARTER**

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This is in response to your request dated June 02, 2020 relating to the Charter Commission's proposed Amendments to the County Charter. These are the following Charter Amendments that the Charter Review Commission will be forwarding to the County Clerk. Please see the attachments. The Amendments are currently in various stages of review and I have indicated it in the summary below.

1. Negligence Claims (CRC 2019-04), attached is the County Attorney's Final Review  
Establishes a time limit for claims in compliance with State law.
2. Police Chief Qualifications (CRC 2019-05), attached is currently under the County Attorney's Review  
Increases the qualifications for a Police Chief.
3. Ethics Disclosures (CRC 2019-06), attached is the County Attorney's Final Review  
Broaden the requirement regarding who needs to file disclosure statements.
4. Prosecutor Vacancy (CRC 2019-14), attached is the County Attorney's Final Review  
Clarify how to fill the position of the Prosecuting Attorney, should there be a vacancy of one (1) year up to 18 months.
5. County Engineer Qualifications (CRC 2019 -21 A), attached is the County Attorney's Final Review  
Broadens the qualifications for a County Engineer.
6. Water Board Manager (CRC 2019-21 C), attached is the County Attorney's Final Review  
Broadens the qualifications for a Water Board Manager
7. Council Districts, attached is a proposal from the public which will be on Charter Commission's Agenda on June 22, 2020.  
Proposes nine (9) Council members, three (3) from each of districts of the Hawaii State Representatives.



**Charter Review Commission**

**Proposed Charter  
Amendment  
County Attorney's  
Final Review**

**NEGLIGENCE CLAIMS (CRC 2019-04):**

**Ballot question:**

Shall Section 23.06, establishing a time limit for negligence claims against the county, be amended to comply with state law?

**Charter language:**

Section 23.06. Claims. No action shall be maintained for the recovery of damages for death or injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where, and how the damages occurred, the extent thereof and the amount claimed therefor, has been filed with the county clerk within ~~[six months after the date the death, injury, or damages were sustained]~~ the time period provided in Hawai'i Revised Statutes section 46-72.

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

**Educational material:**

Section 23.06 establishes a six-month time limit in which anyone alleging they have been injured by the negligence of the County must file a written claim. This six-month time limit conflicts with state law, which allows two years within which to file a claim against the County. The proposed amendment deletes the six-month time limit from section 23.06, and brings the Charter into harmony with state law.

Section 23.06, titled "Claims," requires that any person who believes they have been injured or damaged by the negligence of the County must submit a written statement with the details of their claim within a specified period of time. Under the current Charter, the time limit for submitting a claim against the County is six months.

Before 2007, state law (HRS Section 46-72) provided a six-month time limit for submitting such claims. In 2007, however, the state legislature amended state law to extend the time limit to two years.

Because state law is superior to the County Charter on this issue, the six-month time limit set out in the Charter currently has no meaningful effect.

Leaving the language as-is keeps the county claims language out of compliance with state law.

**Charter Review Commission**

**Proposed Charter  
Amendment**

**In final review with the  
County Attorney**

**POLICE CHIEF QUALIFICATIONS (CRC2019-05):**

**Ballot question:**

Shall police chief qualifications (Section 11.04) be increased to require 10 years law enforcement experience plus educational requirements?

**Charter language:**

Section 11.04. Chief of Police. The chief of police shall be appointed by the police commission. The chief of police may be removed by the police commission only after being given a written statement of the charges against the chief and a hearing before the commission. The chief of police shall have had a minimum of ~~five~~fifteen years of training and experience ~~[in law enforcement,]~~ at least 10 years of which as a peace officer in a full-service, public sector, law enforcement agency, and at least three years of which shall be in [a responsible, administrative capacity,] performing management-level duties at the rank of lieutenant or higher. The chief of police shall have a bachelor's degree in administration of justice, business administration, public administration or a similar administrative field. The chief of police shall make such reports from time to time as the commission shall require and shall annually make a report to the commission on the state of affairs and condition of the police department.

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

**Educational material:**

The Kaua'i Police Commission, after having gone through the process of hiring a new police chief, recommended more stringent requirements for future police chief candidates. The goal of this measure is to ensure that candidates for the county's top law enforcement post meet adequate minimum standards, which match standards in other communities.

Under this measure, a candidate would need a college degree in an appropriate field, a 15-year work history, of which at least 10 years would be as an officer in full-service law enforcement agency, and three years as a lieutenant or higher rank.

Leaving the language as-is would retain minimal standards of five years of training, three of which were as an administrator.

**Charter Review Commission**

**Proposed Charter  
Amendment  
County Attorney's  
Final Review**

**ETHICS DISCLOSURE (CRC 2019-06):**

**Ballot question:**

Shall the list of county officials required to file ethics disclosures (Section 20.04) be expanded to include the managing director and regulatory employees?

**Charter language:**

Charter 20.04. Disclosure.

A. The mayor, councilpersons, ~~[all department heads and deputies,]~~ managing director, heads and deputies of all departments, agencies, and divisions, members of boards and commissions, the purchasing administrator, and ~~[any employee delegated or authorized to act on behalf of the director of finance and the deputy director of finance in their absence shall]~~ regulatory employees shall, within thirty days of assuming office, file with the board a list of all real property within the county in which such person has any right, title, or interest, a list of all business firms which contract for county business in which such person has any interest, and all of such person's places of employment, including part-time employment, all sources and amounts of income, business ownership, officer and director positions, debts, creditor interests in insolvent businesses, and the names of persons represented before government agencies. Amendments to the list, including additions, deletions, or changes in title, interest in property or of employment, shall be made within thirty days of the occurrence of the amendment. The list shall be a matter of public record[-]; provided that the lists of regulatory employees shall not be open to public inspection. (Amended 2008, 2010)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

**Educational material:**

Certain county employees are required to file disclosure of their interests in business and local real estate. This change would include on the list the county managing director, heads and deputies of county departments, agencies and their divisions. It would also include regulatory employees such as building permit inspectors and liquor inspectors. Specific "regulatory employee" classifications would be defined later via administrative rule by the Board of Ethics.

If this provision were to remain as-is, such ethics disclosure requirements would be limited to elected officials, department heads and deputies, the purchasing administrator and members of boards and commissions.

CRC 2019-06

**Charter Review Commission**

Proposed Charter  
Amendment  
County Attorney's  
Final Review

**PROSECUTOR VACANCY (CRC 2019-14):**

**Ballot Question:**

Shall the mayor, with the approval of the Council, fill a vacancy of less than 18 months in the Prosecuting Attorney's position if a first deputy is unable to fill the position (Section 9A.5)?

**Charter Language:**

Section 9A.05. Vacancy in Office. A vacancy in the office of prosecuting attorney shall be filled in the following manner:

A. If the unexpired term is less than [~~a year~~] eighteen months, the first deputy shall act as prosecuting attorney. If the position of first deputy is vacant or if the first deputy is unable to so act, the mayor with the approval of the council shall fill the vacancy by appointment of a person with requisite qualifications within thirty days after the occurrence of the vacancy.

B. If the unexpired term is for eighteen months or more, or in the event the person elected as prosecutor dies before taking office or is unable to qualify, then the vacancy shall be filled by a special primary election and a special general election, patterned after the primary and general election laws of the state, insofar as applicable. The special primary election shall be called by the council and held within forty-five days after the occurrence of the vacancy. The special general election shall be held thirty days after the special primary election. Pending a special election, the first deputy shall act as prosecuting attorney. (Amended 1972)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

**Educational Material:**

Due to an oversight, there is currently no provision for filling a vacancy in the Prosecuting Attorney's office if a vacancy is expected to last between one year and 18 months.

If a vacancy is longer than 18 months, a special election would be held. Under current language, if a vacancy is less than a year, the first deputy would fill in as prosecutor. But there is no guidance on what to do if a Prosecuting Attorney vacates the office with a remaining term of between one year and 18 months. This measure would allow the first-deputy to fill in the position for those 18 months. If there is no first deputy or the first deputy is unable to fill the position, the mayor, with council approval, could appoint a Prosecuting Attorney.

Leaving the language as-is could require going to court for direction in the event of a vacancy of 12 to 18 months.

# **Charter Review Commission**

Proposed Charter  
Amendment  
County Attorney's  
Final Review

**COUNTY ENGINEER QUALIFICATIONS (CRC 2019-21 A):**

**Ballot question:**

Shall an individual who has extensive work and supervisory experience in an engineering or related field be qualified to serve as the County Engineer, head of the Department of Public Works?

**Charter Language:**

Section 13.02. County Engineer. The county engineer shall be appointed and may be removed by the mayor. The county engineer ~~[shall be a registered engineer and]~~ shall have had a minimum of five years of training and experience in an engineering related position, at least three years of which shall have been in a responsible administrative capacity. (Amended 1980)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

**Educational material:**

The County Engineer oversees the largest department in the county, the Department of Public Works. While this was once a position with extensive engineering requirements, it is now primarily a management and administrative assignment, and engineering is performed by trained and certified engineers within the department's divisions.

Mayors for many years have had difficulty filling the position with registered engineers. This amendment recognizes the changing function of the position, and it would expand the pool of qualified applicants.

Leaving the provision as-is would continue to require a Hawai'i-registered engineer hold the position.

**Charter Review Commission**

Proposed Charter  
Amendment  
County Attorney's  
Final Review

**WATER BOARD MANAGER (CRC 2019-21 C):**

**Ballot question:**

Shall an individual who has extensive work and supervisory experience in an engineering or related field be qualified to serve as manager and chief engineer of the Department of Water?

**Charter language:**

Section 17.04. Staff. The ~~[board shall appoint an engineer duly registered under Hawai'i state laws pertaining to registration of engineers]~~ manager and chief engineer shall be appointed and may be removed by the board of water. ~~[Said person shall be known as the manager and chief engineer and shall be the head of the department.]~~ The manager and chief engineer shall have had a minimum of five years of training and experience in an engineering related position, at least three years of which shall have been in a responsible administrative capacity. Said person shall have the powers and duties prescribed by the board. (Amended 1980)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

**Educational material:**

The direction of the Department of Water is increasingly an administrative rather than an engineering function. This provision would recognize that a qualified manager with engineering experience could meet the requirements of the position as well as would a Hawai'i-registered engineer.

Furthermore, as the Board of Water Supply has had difficulty filling this position with qualified engineers, this provision has the capacity to expand the pool of qualified applicants.

Leaving the provision as-is would continue to require a Hawai'i-registered engineer hold the position.

# **Charter Review Commission**

Proposed Charter  
Amendment  
by the public  
will be on the  
June 22, 2020 agenda

**ARTICLE I  
THE COUNTY AND ITS GOVERNMENT**

**Section 1.03. County Elections**

A. Nonpartisan elections. County elections shall be conducted in accordance with the state election laws insofar as applicable, but all elective county officers shall be elected by nonpartisan elections.

B. Offices of the mayor and prosecuting attorney.

1. For the offices of mayor and prosecuting attorney, the names of the two candidates receiving the highest number of votes for these offices in the primary election shall be placed on the ballot for the general election. However, if there is only one candidate for each of said offices, such candidate shall be elected in the primary election.

2. At the general election, the candidates receiving the highest number of votes for mayor and prosecuting attorney shall be elected.

3. Tie votes. In the event of a tie vote for mayor and prosecuting attorney in the primary or general election, the winner shall be determined by a method of chance as determined by the county clerk.

C. Office of ~~[at-large]~~ councilmembers.

1. For ~~[at-large]~~ council offices, ~~[two]~~ up to six candidates for each vacant ~~[at-large]~~ council office receiving the highest number of votes in the primary election within each council district shall be placed on the ballot for the general election.

2. At the general election, the three candidates receiving the highest number of votes ~~[for each vacant at-large council office]~~ within each council district shall be elected.

3. Tie votes. In the event of a tie vote for the last remaining ~~[at-large]~~ council office within each council district in the primary election, the candidates receiving the same number of votes shall be placed on the ballot for the general election.

In the event of a tie vote for the last remaining ~~[at-large]~~ council office within each council district in the general election, the winner shall be determined by a method of chance as determined by the county clerk.

**ARTICLE III  
COUNTY  
COUNCIL**

**Section 3.01. Legislative Power.** The legislative power of the county shall be vested in and exercised by the county council, except as otherwise provided by this charter.

**Section 3.02. Composition.** There shall be a council of ~~[seven]~~ nine members elected ~~[at-large]~~ by the qualified voters of their respective council district, with three members elected from each of three council districts. Council districts shall correspond with Hawai'i state representative districts as apportioned under Article IV of the Hawaii Constitution.

**Section 3.03. Terms.** The terms of office of councilmembers shall be for two years beginning at twelve o'clock meridian on the first working day of December following their election. No person shall be elected to the office of councilmember for more than four consecutive two year terms. (Amended 1980, 1984, 2006)

**Section 3.04. Qualifications.**

A. To be eligible for the council, a person must be a citizen of the United States and must have been a duly qualified elector of ~~[the county]~~ their district for at least two years immediately preceding such person's election or appointment.

B. Any councilmember who removes said councilmember's residence from ~~[the county]~~ their district or is convicted of a felony shall immediately forfeit the office.

C. The council shall be the judge of the qualifications of its members and for that purpose shall have power to subpoena witnesses, take testimony and require the production of records. Decisions made by the council in the exercise of the powers granted in this subsection shall be subject to review by the Fifth Circuit Court of the State of Hawai'i.

**Section 3.05. Vacancy in Office.** In the event a vacancy occurs in the council, the remaining members of the council shall appoint a successor with the required qualifications to fill the vacancy for the unexpired term. If the council is unable to fill a vacancy within thirty days after its occurrence, the mayor shall make the appointment to such vacancy. The foregoing provisions shall apply in the event a person elected as councilmember dies before taking office; provided, however, that the vacancy shall be filled by the newly elected council within thirty days after the beginning of the new term.

**Section 3.06 Compensation.** The salary of each councilmember shall be established in accordance with the provisions of article XXIX of this charter. (Amended 1988, 2006)

**Section 3.07. Organization of Council; Officers; Rules; Employees.**

A. The council shall meet in the council room at the county building or in the Kaua'i War Memorial Convention Hall for its organization promptly after its inauguration and swearing-in ceremony at which time it shall elect one of its members as chair and presiding officer of the council. Until such time as the chair is elected, the mayor shall preside at the council meetings, provided that the mayor shall not have a vote. The council shall also elect one of its members as vice-chair who shall act as the presiding officer in the event of the chair's absence. The council shall appoint a presiding officer pro tempore from its members in the event of the absence of both the chair and vice-chair. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action. (Amended 1984)

B. The council shall adopt such rules as it may deem necessary for the organization of committees and the transaction of its business.

C. The council shall keep a journal of its proceedings.

D. The council may, upon an affirmative vote of at least two-thirds of its entire membership, suspend without pay for not more than one month any member for disorderly or contemptuous behavior in its presence. The presiding officer or the council by a majority vote may expel any other person who is guilty of disorderly, contemptuous, or improper conduct at any meeting.

E. The council shall meet regularly at least twice in every month at such times as the council may prescribe by rule. Special meetings may be held on the call of the mayor, chair, or by [~~five~~] six or more members. All council and council committee meetings shall be open to the public except as provided for in chapter 92, Hawai'i Revised Statutes. (Amended 2008)

F. Council Staff. The council may appoint the necessary personnel for the transaction of its business, and such appointments shall be subject to the civil service and classification requirements. The chair of the council shall be the administrative officer of the staff employees. (Amended 2008)

**Section 3.08. Mayor May Appear Before Council.** The mayor may propose in writing any motion, resolution, or ordinance, or amendments thereto, but shall have no right to vote thereon.

**Section 3.09. Eminent Domain.** The council shall by resolution determine and declare the necessity of taking property for public purposes, describing the property and stating the uses to which it shall be devoted.

**Section 3.10. Annual Budget and Capital Program.** The council shall enact an annual budget ordinance, which shall include both the operational and capital expenditures for the fiscal year and the method of financing same. The council shall provide sufficient revenues to assure a balanced budget.

**Section 3.11. Adoption of Pay Plan.** The council by ordinance shall appropriate the salaries of all officers and employees who are exempt from civil service in accordance with the provisions of section 7.05E and article XXIX of this charter. All other officers and employees shall be classified and paid in accordance with law. (Amended 1984, 1988, 2006)

**Section 3.12. Audit.**

A. Financial audit. At least once every two years and at any other time as may be deemed necessary, the council shall cause an independent audit of all county funds and accounts to be made by a certified public accountant or firm of certified public accountants. The scope of the audit shall be in accordance with the terms of a written contract to be signed by the chair which shall provide for the completion of the audit within a reasonable time. If the state makes such an audit, the council may accept it as satisfying the requirements of this section. The audit shall be a matter of public record.

B. Performance audit. To ensure and determine whether government services are being efficiently, effectively, and economically delivered, the council may at any time provide for a performance audit of any or all of the offices, agencies, departments, programs, and operations for which the county is responsible. The council may exercise its authority to conduct performance audits through the hiring of a qualified in-house auditor, through the hiring of a qualified contract auditor, or both. The scope of the audit shall be in accordance with the terms of an assignment referred to the office of the county clerk by the county council or a written contract to be approved by the council and signed by the presiding officer of the council, but may include the following activities:

(1) Examination and testing of county offices', agencies', programs', and departments' implementation processes to determine whether the laws, policies, and programs of the county are being carried out in the most effective, efficient, and economical manner.

(2) Examination and testing of the internal control systems of offices, agencies, programs, operations, and departments to ensure that such systems are properly designed to safeguard public assets against loss from waste, fraud, error, to promote efficient operations, and to encourage adherence to prescribed management policies.

Said assignment or contract shall encourage recommendations for changes in the organization, management, and processes which will produce greater efficiency and effectiveness in meeting the objectives of the programs or operations carried out by

the respective county agencies, departments, offices, programs, and operations and shall provide for the completion of the audit within one calendar year. A copy of the audit report shall be filed with the county clerk and shall be public record. (Amended 2000)

**Section 3.13. Creation of General Debt.**

A. The council by the affirmative vote of at least [~~five~~] six members may authorize the issuance of general obligation bonds in accordance with the Constitution and laws of the State of Hawai'i.

B. Each bond authorization shall specify the purpose for which moneys are to be borrowed and the maximum amount of bonds to be issued for that purpose.

C. Notwithstanding any limitation contained in this charter, the council may accept and receive participating or nonparticipating federal and state loans for public improvement projects or other purposes, the aggregate of which, together with any bonded indebtedness outstanding, shall not at any time exceed the total bonded indebtedness authorized by the Constitution of the State of Hawai'i.

D. The council may provide for the refunding of general obligation bonds.

**Section 3.14. Creation of Special Assessment Debt.** The council may authorize the issuance of improvement bonds to finance assessable public improvements in the manner provided by law.

**Section 3.15. Revenue Bond Indebtedness.** The council may authorize the issuance of revenue bonds for the purpose of initiating, constructing, acquiring, extending, replacing, or otherwise improving any revenue-producing facility as provided by law.

**Section 3.16. Temporary Borrowing.**

A. The council may borrow money in any fiscal year in anticipation of revenues to be derived from taxes for that year, and for any of the purposes to which the revenues are appropriated. No such borrowing shall be in excess of 25 percent of the amount of the uncollected taxes of that year.

B. When any warrants are presented to the county for payment, and the same are not paid for lack of funds, the director of finance shall issue a warrant note, equal in amount to the face value of the warrant or warrants so presented for payment. The warrant note shall be in a form and shall be due at a date prescribed by the director of finance. It shall bear interest at the lowest obtainable rate. The notes shall be a first charge on the moneys of any fund against which the warrants are issued.

C. The council upon recommendation of the mayor may authorize the director of finance to obtain temporary loans from the state.

**Section 3.17. Investigation.** The council or any authorized committee thereof shall have the power to conduct investigations of the operation of any agency or function of the county and any subject upon which the council may legislate. In investigations, the presiding officer shall have the right to administer oaths and in the name of the council to subpoena witnesses and compel the production of books and papers pertinent thereto. If any person subpoenaed as a witness or to produce any books or papers called for by the process of the council or committee shall fail or refuse to respond thereto, the circuit court upon request of the council shall have power to compel obedience to any process of the council and require such witness to answer questions put to the witness as aforesaid, and to punish, as a contempt of the court, any refusal to comply therewith without good cause shown therefor.

False swearing by any witness shall constitute perjury and be punished as such, and whenever the council is satisfied that a witness has sworn falsely in any hearing or investigation, it shall report same to the county attorney for prosecution. In any investigation which concerns the alleged gross misconduct, or alleged criminal action on the part of any individual, such individual shall have the right to be represented by counsel, the right of reasonable cross-examination of witnesses, and the right to process of the council to compel the attendance of witnesses in the individual's behalf.

**Section 3.18. Restrictions on County Council and Councilmembers.** The council and its members shall not interfere with the administrative processes delegated to the mayor.

Except for the purpose of investigative inquiries under section 3.17, the council or its members, in dealing with county employees, or with county officers who are subjected to the direction and supervision of the mayor, shall deal solely through the mayor, and neither the council nor its members shall give orders to any such employee or officer either publicly or privately. Any willful violation of the provisions of this section by a member of the council shall be sufficient grounds for an action for the member's removal from office.

**ARTICLE I  
THE COUNTY AND ITS GOVERNMENT**

**Section 1.03. County Elections**

A. Nonpartisan elections. County elections shall be conducted in accordance with the state election laws insofar as applicable, but all elective county officers shall be elected by nonpartisan elections.

B. Offices of the mayor and prosecuting attorney.

1. For the offices of mayor and prosecuting attorney, the names of the two candidates receiving the highest number of votes for these offices in the primary election shall be placed on the ballot for the general election. However, if there is only one candidate for each of said offices, such candidate shall be elected in the primary election.

2. At the general election, the candidates receiving the highest number of votes for mayor and prosecuting attorney shall be elected.

3. Tie votes. In the event of a tie vote for mayor and prosecuting attorney in the primary or general election, the winner shall be determined by a method of chance as determined by the county clerk.

C. Office of [~~at-large~~] councilmembers.

1. For [~~at-large~~] council offices, [~~two~~] up to six candidates for each vacant [~~at-large~~] council office receiving the highest number of votes in the primary election within each council district shall be placed on the ballot for the general election.

2. At the general election, the three candidates receiving the highest number of votes [~~for each vacant at-large council office~~] within each council district shall be elected.

3. Tie votes. In the event of a tie vote for the last remaining [~~at-large~~] council office within each council district in the primary election, the candidates receiving the same number of votes shall be placed on the ballot for the general election.

In the event of a tie vote for the last remaining [~~at-large~~] council office within each council district in the general election, the winner shall be determined by a method of chance as determined by the county clerk.

**ARTICLE III  
COUNTY  
COUNCIL**

**Section 3.01. Legislative Power.** The legislative power of the county shall be vested in and exercised by the county council, except as otherwise provided by this charter.

**Section 3.02. Composition.** There shall be a council of ~~seven~~ nine members elected ~~[at large]~~ by the qualified voters of their respective council district, with three members elected from each of three council districts. Council districts shall correspond with Hawai'i state representative districts as apportioned under Article IV of the Hawaii Constitution.

**Section 3.03. Terms.** The terms of office of councilmembers shall be for two years beginning at twelve o'clock meridian on the first working day of December following their election. No person shall be elected to the office of councilmember for more than four consecutive two year terms. (Amended 1980, 1984, 2006)

**Section 3.04. Qualifications.**

A. To be eligible for the council, a person must be a citizen of the United States and must have been a duly qualified elector of ~~[the county]~~ their district for at least two years immediately preceding such person's election or appointment.

B. Any councilmember who removes said councilmember's residence from ~~[the county]~~ their district or is convicted of a felony shall immediately forfeit the office.

C. The council shall be the judge of the qualifications of its members and for that purpose shall have power to subpoena witnesses, take testimony and require the production of records. Decisions made by the council in the exercise of the powers granted in this subsection shall be subject to review by the Fifth Circuit Court of the State of Hawai'i.

**Section 3.05. Vacancy in Office.** In the event a vacancy occurs in the council, the remaining members of the council shall appoint a successor with the required qualifications to fill the vacancy for the unexpired term. If the council is unable to fill a vacancy within thirty days after its occurrence, the mayor shall make the appointment to such vacancy. The foregoing provisions shall apply in the event a person elected as councilmember dies before taking office; provided, however, that the vacancy shall be filled by the newly elected council within thirty days after the beginning of the new term.

**Section 3.06 Compensation.** The salary of each councilmember shall be established in accordance with the provisions of article XXIX of this charter. (Amended 1988, 2006)

**Section 3.07. Organization of Council; Officers; Rules; Employees.**

A. The council shall meet in the council room at the county building or in the Kaua'i War Memorial Convention Hall for its organization promptly after its inauguration and swearing-in ceremony at which time it shall elect one of its members as chair and presiding officer of the council. Until such time as the chair is elected, the mayor shall preside at the council meetings, provided that the mayor shall not have a vote. The council shall also elect one of its members as vice-chair who shall act as the presiding officer in the event of the chair's absence. The council shall appoint a presiding officer pro tempore from its members in the event of the absence of both the chair and vice-chair. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action. (Amended 1984)

B. The council shall adopt such rules as it may deem necessary for the organization of committees and the transaction of its business.

C. The council shall keep a journal of its proceedings.

D. The council may, upon an affirmative vote of at least two-thirds of its entire membership, suspend without pay for not more than one month any member for disorderly or contemptuous behavior in its presence. The presiding officer or the council by a majority vote may expel any other person who is guilty of disorderly, contemptuous, or improper conduct at any meeting.

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