

Ryan de la Pena  
Chair

Mary Tudela  
Vice-Chair

Addison Bulosan  
Secretary

Members:  
Calvin Murashige  
Brad Nagano  
Warren Perry  
Maureen Tabura

**COUNTY OF KAUA'I BOARD OF ETHICS**  
**NOTICE OF MEETING AND AGENDA**

Friday, February 19, 2016  
1:00 p.m. or shortly thereafter  
Mo'ikeha Building, Liquor Conference Room 3  
4444 Rice Street, Līhu'e, HI 96766

**CALL TO ORDER**

**APPROVAL OF MINUTES**

Regular Open Session Minutes of December 18, 2015

**COMMUNICATION**

BOE 2015-22 Proposed Charter amendment from the Board of Ethics on 11/13/15 to the Charter Review Commission regarding Article XX for the Kaua'i County Charter

a. Section 20.02 E was received for the record by the Charter Commission and will not be moving to the ballot

**REQUEST FOR AN ADVISORY OPINION**

RAO 16-001 Request from Angela Anderson, former Planning Commissioner, as to whether there is a conflict for HILT (Hawaiian Islands Land Trust) in which she is the Kaua'i Island Director to enter into a contract with the County of Kaua'i to assist with facilitating acquisitions for the Open Space Program

**DISCLOSURES**

- a. Louis Edmund Abrams (Planning Commission)
- b. Mary Kathleen Hertog (Police Commission)
- c. Sherman Shiraishi (Board of Water)
- d. Kevin Thomas Mince (Police Commission)
- e. Karen S. Matsumoto (Civil Service Commission)
- f. Ted K. Blake (Open Space, Public Access)
- g. Dorothy Roberts Bekeart (Board of Review)
- h. Althea K. Arinaga (Kaua'i Historic Preservation Review Commission)
- i. Shoshana Rachel O'Brien (Deputy County Attorney)
- j. Anne Karen Schneider (Kaua'i Historic Preservation Review Commission)

k. Kipukai L.P. Kualii (Candidate for County Council)

**EXECUTIVE SESSION**

Pursuant to Hawai'i Revised Statutes §§92-4 and 92-9 (a)(1-4) (b), the purpose of this executive session is to receive and approve Executive Session minutes and to consult with the Commission's legal counsel on issues pertaining to the Commission's and the County's powers, duties, privileges, immunities, and/or liabilities as they may relate to this item, deliberate and take such action as appropriate.

**ES-001:** Regular Executive Session Minutes of December 18, 2015

Pursuant to H.R.S. §92-4 and H.R.S. §92-5 (a) (2) and (4), the purpose of this executive session is to consider the evaluation, dismissal or discipline of an employee or officer of the County in which charges have been alleged against an employee or officer where consideration of matters affecting privacy will be involved; provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with the Board's legal counsel on issues pertaining to the Board's and the County's powers, duties, privileges, immunities, and/or liabilities as they may relate to this item, deliberate and take such action as appropriate.

**ES-002:** BOE 16-001 Complaint received 1/21/16 alleging an employee or officer of the county has breached the Code of Ethics as set forth in the Kaua'i County Charter and the Kaua'i County Code 1987 in the performance of his/her duties

**RETURN TO OPEN SESSION**

Ratify Board of Ethics actions taken in Executive Session for items: **ES-001 and ES-002**

**ANNOUNCEMENTS**

Next Meeting: Friday, March 18, 2016 – 1:00 p.m., Mo'ikeha Building, Liquor Conference Room

**ADJOURNMENT**

**NOTICE OF EXECUTIVE SESSION**

Pursuant to Hawaii 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).

c: Nicholas Courson, Deputy County Attorney

## PUBLIC COMMENTS and TESTIMONY

Persons wishing to offer comments are encouraged to submit written testimony at least 24-hours prior to the meeting indicating:

1. Your name and if applicable, your position/title and organization you are representing;
2. The agenda item that you are providing comments on; and
3. Whether you will be testifying in person or submitting written comments only.
4. If you are unable to submit your testimony at least 24 hours prior to the meeting, please provide 10 copies of your written testimony at the meeting clearly indicating the name of the testifier; and

While every effort will be made to copy, organize and collate all testimony received, materials received on the day of the meeting or improperly identified may be distributed to the members after the meeting is concluded.

The length of time allocated to persons wishing to present verbal testimony may be limited at the discretion of the chairperson or presiding member.

### Send written testimony to:

Board of Ethics  
Attn: Barbara Davis  
Office of Boards & Commissions  
4444 Rice Street, Suite 150  
Līhu'e, HI 96766  
Email: [bdavis@kauai.gov](mailto:bdavis@kauai.gov)  
Fax: 241-5127 Phone: 241-4919

### SPECIAL ASSISTANCE

If you need an alternate format or an auxiliary aid to participate, please contact the Boards & Commissions Support Clerk at 241-4919 at least five (5) working days prior to the meeting.

# DRAFT TO BE APPROVED

COUNTY OF KAUAI  
Minutes of Meeting  
OPEN SESSION

| Board/Committee:    | BOARD OF ETHICS  |  | Meeting Date  | December 18, 2015         |
|---------------------|--|--|---|---------------------------|
| Location            | Mo'ikeha Building, Liquor Conference Room 3  |  | Start of Meeting: 1:01 p.m.   | End of Meeting: 1:13 p.m. |
| Present             | Chair Warren Perry; Vice Chair Maureen Tabura; Secretary Ryan de la Pena (1:05 p.m.). Members: Addison Bulosan; Calvin Murashige; Brad Nagano  |  |   |                           |
| Excused             | Staff: Deputy County Attorney Nicholas Courson; Boards & Commissions Office: Support Clerk Barbara Davis; Administrator Jay Furfaro  |  |   |                           |
| Absent              | Member Mary Tudela   |  |   |                           |
|                     |  |  |   |                           |
| SUBJECT             | DISCUSSION   |  | ACTION  |                           |
| Call To Order       |  |  | Chair Perry called the meeting to order at 1:01 p.m. with 5 members present.                                    |                           |
| Approval of Minutes | Regular Open Session Minutes of November 13, 2015  |  | Mr. Murashige moved to approve the minutes as circulated. Mr. Nagano seconded the motion. Motion carried 5:0    |                           |
| Business            | BOE 2015-25 Election of Chair, Vice Chair, and Secretary for calendar year 2016  |  |   |                           |
|                     | <p>Mr. Murashige nominated Ryan de la Pena for chair with a second from Ms. Tabura.</p> <p>Mr. Nagano nominated Mary Tudela for vice chair.</p> <p>Mr. Murashige nominated Addison Bulosan for secretary.</p> <p>Chair Perry called for a motion to elect Mr. de la Pena as chair, Ms. Tudela as vice chair, and Mr. Bulosan as secretary.</p> |  | <p>Mr. de la Pena moved to accept the slate of officers. Ms. Tabura seconded the motion. Motion carried 6:0</p> |                           |
|                     | BOE 2015-26 Meeting Schedule for 2016  |  | Ms. Tabura moved to accept the 2016 Meeting   |                           |

Open Minutes  
12/18/15

| SUBJECT                       | DISCUSSION  | ACTION   |
|-------------------------------|---|--|
| <b>Executive Session</b>      |   | Schedule. Mr. Murashige seconded the motion. Motion carried 6:0  |
|                               |   | Attorney Courson cited that the Board would go into Executive Session pursuant to the Hawai'i Revised Statutes for ES-022 as fully described on the posted agenda.                 |
| <b>Return to Open Session</b> | Ratify Board of Ethics actions taken in Executive Session for items: ES-022 | Ms. Tabura moved to go into Executive Session at 1:10 p.m. Mr. de la Pena seconded the motion. Motion carried 6:0  |
| <b>Announcements</b>          | Next Meeting: Friday, January 15, 2016 – 1:00 p.m.                          | The meeting resumed in Open Session at 1:13 p.m.   |
| <b>Adjournment</b>            |   | Mr. Nagano moved to ratify the Board's actions taken in Executive Session. Mr. Murashige seconded the motion. Motion carried 6:0<br>Chair Perry adjourned the meeting at 1:13 p.m. |

Submitted by: \_\_\_\_\_  
Barbara Davis, Staff Support Clerk

Reviewed and Approved by:

Warren C.R. Perry, Chair

( ) Approved as circulated.

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

**ARTICLE XX  
CODE OF ETHICS**

Section 20.02. No officer or employee of the county shall:

A. Solicit, accept or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

B. Disclose information which, by law or practice, is not available to the public and which he acquires in the course of his official duties or use such information for his personal gain or for the benefit of anyone.

C. Acquire financial interest in business enterprises which he may be directly involved in official action to be taken by him.

D. Appear in behalf of private interests before any county board, commission or agency.

E. Use his official position to secure a special benefit, privilege or exemption for himself or others[-], or to impose an undue detriment on another.

F. Use county property for other than public activity or purpose.

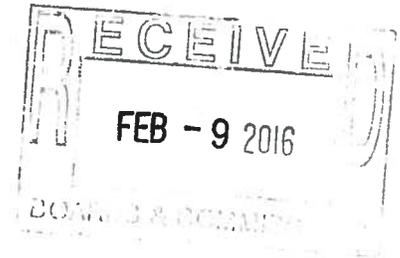
Note to Charter Commission: Board members expressed concern over gender neutral language on sub-section E without addressing all the other sub-sections. The Board was informed that the Commission is working on that as a whole for the Charter.

Ethics\_111315

~~CRC 2015-04 c.~~

BOE 2015-22a 

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February 2, 2016

Kauai County Board of Ethics  
c/o Office of Boards and Commissions  
4444 Rice Street, Suite 150  
Lihue, HI 96766

**Re: Request for Advisory Opinion on Contract with Hawaiian Islands Land Trust, a Hawaii non-profit, and the County of Kauai**

To Chair Ryan de la Pena and other Honorable Members of the Board of Ethics:

I am writing to request an Advisory Opinion (AO) regarding a potential contract with the Hawaiian Islands Land Trust (HILT) and the County of Kauai. Out of an abundance of caution, I seek an AO from this body to ensure that my personal involvement in the performance of services under such proposed contract would not present an impermissible conflict of interest, violate the County of Kauai Code of Ethics or otherwise be contrary to the Kauai County Code or Kauai County Charter.

*Background*

I currently serve as the Kauai Island Director of HILT, a statewide 501(c) 3 non-profit organization. HILT's mission is to protect the lands that will sustain us for current and future generations. HILT is the first and only nationally accredited local land trust in Hawai'i. HILT has offices on Oahu, Hawaii Island, Kauai and Maui. As an island director, I report to the Director of Conservation and Executive Director (currently Interim Executive Director, Scott Fisher PhD).

From April 2013 through January 13, 2016, I served as a volunteer appointed member of the County of Kauai Planning Commission (in one of the two seats reserved for environmental representatives and as Chair in 2015). My intentions driving my public service, as a volunteer and as current employee of a non-profit remain constant: to best utilize my skills, understanding and knowledge to promote the health, viability and long-term sustainability of our Kauai Community. As a Planning Commissioner, I participated in public and agency Planning Commission hearings, served as hearings officer (pro bono) and as a member of the Long-Range Planning Committee for the County of Kauai Planning Department. During my tenure on the Planning Commission, I did not attend or otherwise participate meetings or the operation of the Open Space Commission or program.

The County of Kauai, now seeks to contract with HILT, due to HILT's specialized expertise in conservation transactions. The purpose of the contract would be for HILT to assist the County with facilitating acquisitions for the Open Space program. The terms of such contract and proposed scope of work have not been finalized; however, the general agreement is for HILT

RAO 16-001



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to provide consultant services, including negotiations, evaluations of proposed projects and educational workshops to promote and facilitate acquisitions under the County of Kauai Open Space program. HILT's services would be billed on a time and material basis. Given my position as Kauai Island Director, I would be significantly involved the performance of such services.

*Ethics & Contract Provisions*

I have reviewed provisions of the Kauai County Code and Charter applicable to contracts and such provisions do not appear to be preclude my service to the County in my employed position with HILT; however, I am requesting an AO in order to be certain that such involvement meets the applicable requirements. Section 20.3 (A) of the County of Kauai Charter (Charter) sets forth *[t]he county shall not enter into any contract with an officer or employee or with a firm in which an officer or employee has a substantial interest involving services or property of a value in excess of \$1,000.00 unless the contract is made after competitive bidding.* The prohibition here does not appear to be applicable given the facts, that 1) at this point in time, HILT and the County have not entered into a contact and 2) I no longer serve in any capacity with the County of Kauai. Section 20.03 (B) of the Charter states, *[t]he county shall not enter into a contract with any person or firm which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding one year and who participated while in county employment with the subject matter of the contract.* Similarly, Article 1., Section 3-1.8 of the Kauai County Code precludes a County agency from entering a contract with a person or business which is *represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding one (1) year and who participated while in County office or employment in the matter with which the contract is directly concerned.* As previously stated, during my tenure on the Planning Commission, I did not participate in Open Space Program matters. Further, as set forth herein, the proposed contract would not be with me personally, but rather with HILT, a non-profit organization. For the record, the funds generated by fees for services would be utilized by HILT for general operations of the organization and not for any direct financial benefit to myself. I personally value integrity as a person's utmost important trait. I recognize my potential involvement in providing a service to the County Open Space program, given my previous position on the Planning Commission may trigger speculations regarding potential conflicts. My intentions are to be fully transparent and preserve the integrity of the relationships with the Open Space Commission, County of Kauai, HILT and myself.

I am happy to appear in person (if necessary) to provide any additional information. Thank you for your time and consideration of this matter.

Sincerely,



Angela Anderson