

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved with ammendments 2/15/19

Board/Commission:	BOARD OF ETHICS	Meeting Date	January 18, 2019	
Location	Mo‘ikeha Building, Liquor Conference Room 3	Start of Meeting: 1:00 p.m.	End of Meeting: 2:40 p.m.	
Present	Chair Dean Toyofuku, Vice Chair Mia Shiraishi, Secretary Susan Burriss. Members: Mary Tudela, Maureen Tabura, and Ryan de la Pena. Also: Deputy County Attorney Maryann Sasaki. Boards & Commissions Office Staff: Administrator Ellen Ching and Support Clerk Arleen Kuwamura.			
Excused				
Absent				
SUBJECT	DISCUSSION	ACTION		
Call To Order		Chair Toyofuku called the meeting to order at 1:00 p.m. with six members present which constituted a quorum.		
Approval of Minutes	<u>Open Session Minutes of December 7, 2018</u> Ms. Burriss pointed out a correction to the minutes on page two, line one, an extra word “for” after Ellen Ching. Hearing no further changes, corrections, or additions, Chair Toyofuku entertained a motion to approve the minutes.	Mr. de la Pena moved to approve the Open Session minutes of December 7, 2018, as circulated and corrected. Ms. Tabura seconded the motion. Motion carried 5:1 (Ms. Tudela - Abstained)		
Communication	<u>BOE 2019-01 List of positions and appointees responsible for submitting a disclosure statement.</u> Chair Toyofuku requested a motion for discussion of BOE-2019-01 list moved for discussion until after Disclosure review completed.	Mr. de la Pena moved to move discussions on BOE 2019-01. Ms. Tabura seconded the motion. Motion carried 6:0.		

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	<p data-bbox="478 318 1314 347"><i>Returned to discussion after completing Disclosure Form review.</i></p> <p data-bbox="369 391 1499 456">Ms. Tabura noted that the list did not call for Commissioners to do anything so a motion could be moved.</p> <p data-bbox="369 505 1493 570">Deputy County Attorney Maryann Sasaki advised making a motion to discuss the list of appointees' response to Disclosure letters after the discussions of the Disclosures.</p> <p data-bbox="369 618 1409 683">Chair Toyofuku entertained a motion to approve discussing the list of appointees' response to Disclosure letters after the discussions of the Disclosures.'</p> <p data-bbox="369 732 1472 797">Ms. Tudela recalled from last meeting an Action Item ask for a recommendation and a fine schedule?</p> <p data-bbox="369 846 1499 911">Ms. Burriss stated yes, and that it was going to come back to them. Mr. de la Pena stated he thought it was sent County Council.</p> <p data-bbox="369 959 1472 1024">Vice Chair Mia thought that counsel was going to draft somethings so the board could send it to the County Council.</p> <p data-bbox="369 1073 1346 1105">Ms. Tudela stated what she read was that we are not quite done with this yet.</p> <p data-bbox="369 1154 1499 1317">Deputy County Attorney Sasaki stated that she had no recollection of it but, that Nick, Mr. Courson stated, "that the Board could ask the new counsel, Deputy County Attorney Maryann Sasaki, to Draft the proposed Bill for the Boards consideration. Once the Board agrees with the proposal then it can be submitted for Council consideration. I assume I should be doing this, I have not done it.</p> <p data-bbox="369 1365 1499 1430">Ms. Tudela stated she did not think they acted on that particular issue based on the minutes she read. She felt it is still an Action Item the board is requesting because it has</p>	

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	<p>not yet been officially voted on. Ms. Tudela felt the Action Item for today is what to do with the list and what to do with the Open Item from last meeting business.</p> <p>Boards and Commissions Administrator Ms. Ellen Ching stated she did receive communication from the County Clerk, Jade Tanigawa that they are willing to Draft a Fine Schedule and submit it to the Commission if they request it.</p> <p>Ms. Tudela stated she has been here for four years and have not asked the Council for an ordinance or anything like this as it is new ground. So she did not know who they would send it too. Does it go to the Council or rather clerk? The clerk was the one who brought it to the Boards attention after we asked for information on how it was being some on neighbor islands three or four meetings ago.</p> <p>Ms. Burriss noted if it's legislation that the Board wants to advance, the Boards procedure would be to select a Council person and have them present it. Ms. Burriss asked, Do we want this or does somebody else want this?</p> <p>Ellen Ching referred to options, the first, Board could request the Deputy County to Draft a fine Schedule and receive for discussion or the other option is to the County Clerk Council services and ask them to Draft and receive it and discuss.</p> <p>Ms. Burriss asked, "Is this something we care enough about to request that it be (inaudible)?"</p> <p>Ms. Tudela replied, She thought it was something the Board should do based on what happened two or three meeting ago. This came up regarding Mr. Tabata. We were concerned at the time that we had a loose thread and wanted to clean it Up. I move to approve to ask counsel to go back and put together the process for this ordinance recommendation from Mr. Courson. She also suggested that they agree that the board wants to move forward and ask of counsel on how to.</p>	

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	<p>Mr. de la Pena seconded.</p> <p>Vice Chair Mia commented that at the last meeting the Board did vote on the language in the Fine Schedule so all that was needed was someone to put that language to submit to Council. The substance of the Boards ordinance was decided upon at the last meeting, just need somebody to put it in nice packaging.</p> <p>Vice Chair Mia stated she personally did not have any preference between their Counsels doing it or County Clerk Jade Tanigawa, so whoever we feel is best for that.</p> <p>Ms. Tudela stated she felt that because it was an ordinance she would prefer an Attorney.</p> <p>Chair Toyofuku asked Deputy County Attorney Sasaki what she thought.</p> <p>Deputy County Attorney Sasaki declined to comment, however, she pointed out she was hearing two different issues.</p> <p>Chair Toyofuku gave history of situation leading up to where they are at today.</p> <p>Chair Toyofuku entertained the motion of all those in favor to make the formal request to counsel to Draft regarding BOE-2018-17.</p> <p>Chair entertained motion to approve to receive communications BOE-2019-01</p> <p>A Lengthy discussion regarding the list and the reason for Boards request. Which was requested by Chair Curtis regarding filing Disclosures and the responsibilities. Ellen Ching stated she is working on past concerns and working on a process and procedures such as at the beginning of the year sending out reminder notices and other pro-active methods.</p>	<p>Ms. Tuledo moved to ask Counsel to Draft what was decided in the December 7, 2018, Re BOE 2018-17 Mr. de la Pena seconded the motion. Motion carried 6:0.</p> <p>Ms. Tudela moved to make a formal request to Counsel to Draft regarding BOE 2018-17 to. Ms. Tabura seconded the motion. Motion carried 6:0.</p> <p>Mr. de la Pena moved to receive communications BOE 2019-01 Ms. Tabura seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
Request for an Advisory Opinion	There was no request for advisory.	
Business	There was no Business	
Disclosures	<ol style="list-style-type: none"> 1. Mia R. Shiraishi – Board of Ethics 2. Ellen M. Ching – Administrator of Boards and Commissions 3. Gary A. Pacheco – Liquor Control Commission 4. Donna Apisa – Planning Commission 5. Virginia Kapali – Charter Review Commission 6. William F. Gibson – Liquor Control Commission 7. Mary Hertog – Police Commission 8. Patrick T. Porter – Director of Parks and Recreation 9. Peter M. Morimoto – Deputy County Attorney 10. Kipukai L.P. Kualii'i - Councilmember 11. Elton S. Ushio – Emergency Management Administrator 12. Derek S.K. Kawakami - Mayor 13. Celia M. Wooton-Mahikoa – Executive on Transportation 14. Maryann Sasaki – Deputy County Attorney 15. Kanani Fu – Housing Director 16. Kaaina S. Hull – Planning Commission 17. Michael A. Dahilig – Managing Director 18. Nicholas R.H. Courson – First Deputy County Attorney 19. Jodi A. Sayegusa – Deputy Director of Planning 20. Matthew M. Bracken – County Attorney 21. Scott K. Sato – Deputy County Clerk 22. Jade K. Fountain-Tanigawa – County Clerk 23. Arthur Brun – Councilmember 24. Mason K. Chock - Councilmember 25. Ross K. Kagawa – Councilmember 26. Arryl J. Kaneshiro – Councilmember 	

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	<p>27. Mark L. Ishmael – Deputy County Attorney 28. Mahealani M. Kraft – Deputy County Attorney 29. Cameron N. Takamura – Deputy County Attorney 30. Adam P. Roversi – Deputy County Attorney 31. Mark L. Bradbury – Deputy County Attorney 32. Lyle M. Tabata – Deputy County Engineer/Ex. Officio for Board of Water Supply 33. Dean A. Pigao – Police Commission 34. Michelle L. Lizama – Finance Deputy Director 35. Bryan M. Wienand – Manager & Chief Engineer, Dept. of Water 36. Wallace G. Rezendes Jr. – Deputy Director of Parks and Recreation 37. Blanche R. Matsuyama – Director of Finance 38. Sarah K. Blane – Chief of Staff 39. Ludvina K. Takahashi – Executive Director of Office of Aging 40. Jeremy K. Lee – Transportation Dept. Program Specialist III</p> <p>Chair Toyofuku stated that because there were so many Disclosure statements, at the recommendation of Counsel, they would go over them one at a time.</p> <p>Deputy County Attorney Sasaki suggested they could move the Disclosure statements by reading off the names of each accepted Disclosure and make a motion for the record, followed by the ones that Board of Ethics have issues with, the Board could make a motion to open for discussion for the record.</p> <p>Mr. de la Pena inquired if the routing slip was a record, since it has initials. Deputy County Attorney Sasaki pointed out the routing slip did not say ok. She suggested that alternatively, they could read all the accepted ones at once and make a motion that all were admitted.</p>	

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	<p>Ms. Tudela stated that it had been the practice move to approve by number the ones that the Ethics Board had no issues with, and then individually taking care of the ones they did find issues.</p> <p>Deputy County Attorney Sasaki stated she thought the numbering process was a bit confusing for the record but she did not think it was a material difference.</p> <p>Ms. Burriss stated she thought by name was fine. Deputy County Attorney Sasaki suggested someone make a motion ether by name or by number.</p> <p>Ms. Tudela requested of Chair Toyofuku to call out the numbers of Disclosure Statements Board of Ethics Commissioners had questions on.</p> <p>Chair Toyofuku called out numbers 2, 6, 8, 12, 16, 19, 24, 30, 32, and 39 for a total of ten Disclosure statements set aside for clarification or question needing to be answered.</p> <p>Chair Toyofuku entertained a motion to approve Disclosures 1, 3, 4, 5, 7, 9, 10 11, 13, 14, 15, 17, 18, 20, 21, 22, 23, 25, 26, 27, 28, 29, 31, 33, 34, 35, 36, 37, 38, and 40.</p> <p>Ms. Tudela requested a move to discuss Disclosures the Board found issues with one at a time and discuss what the issue is then decide individually how each should be handled.</p>	<p>Ms. Tudela moved to approve the Disclosures 1,3, 4, 5, 7, 9, 10 11, 13, 14, 15, 17, 18, 20, 21, 22, 23, 25, 26, 27, 28, 29, 31, 33, 34, 35, 36, 37, 38, and 40. As submitted. Mr. de la Pena seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
	<p>Chair Toyofuku entertained a motion to approve returning Disclosure 6 for revision of his annual income.</p> <p>Chair Toyofuku referred to Patrick Porter (8).</p> <p>Vice Chair Shiraishi noted section 3 listed no source of income.</p> <p>Chair Toyofuku entertained a motion to approve return Disclosure 8 for no source of income.</p> <p>Chair Toyofuku referred to Derek Kawakami (12) Ms. Tudela stated section 8 was left blank and needed to be clarified. The section under representation before Government Agencies.</p> <p>Chair Toyofuku entertained a motion to approve return Disclosure 12 for clarification.</p> <p>Chair Toyofuku referred to Kaaina Hull (16),</p> <p>Ms. Tabura pointed out the statement listed being appointed by the board, doesn't have an employer, yet income listed is the County of Kauai. Her question, Is he being paid to be on the Planning Commission?</p> <p>Mr.de la Pena asked, Do you know where he works?</p>	<p>Ms. Tabura moved to return William Gibson (6) Disclosure form for clarification of sections 3. Ms. Tudela seconded the motion. Motion carried 6:0.</p> <p>Ms.Tudela moved to return Patrick Portor (8) Disclosure form for revision of sections 3-no source of income. Ms. Tabura seconded the motion. Motion carried 6:0.</p> <p>Ms.Tudela motion to return Derek Kawakami (12) Disclosure form for clarification of sections 8. Mrs. De la Pena seconded the motion. Motion carried 6:0.</p>

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	<p>Ms Tudela stated, he is the Planning Director and appointed by the Planning Commission. The confusion and discrepancy is the listing of section 1 which needs to be clarified and revised.</p> <p>Chair Toyofuku entertained a motion to approve return Disclosure 16 for revision of section 1.</p> <p>Chair Toyofuku stated Jodi Sayegusa (19) did not sign nor was disclosure notarized and entertained the motion to approve return Disclosure 19 for signature and notarization.</p> <p>Chair Toyofuku referred tp the disclosure by Mason Chock (24)</p> <p>Mr. de la Pena noted he listed County of Kauai twice and his business section 3 needs clarification.</p> <p>Ms. Burriss had a concern regarding the employer, Kupu'a a, she could not tell or did not know what they do. Thus, she could not tell if there was an inherent conflict of interest based on the nature of the business.</p> <p>Mr. de la Pena stated he did not think they should have to ask.</p> <p>Deputy County Attorney Sasaki stated she did not have the answers but would research and bring it to the next meeting. The advice from Counsel was to table discussion.</p> <p>Ms. Burriss made a sub-motion to set on the table this vote on the Chock Disclosure.</p>	<p>Ms. Tabura motion to return Kaaina Hull (16) Disclosure form for revision of section 1. Ms. Tudela seconded the motion. Motion carried 6:0.</p> <p>Ms.Tudela motion to return Jodi Sayegusa (19) Disclosure form for signature and notarization. Mr. de la Pena seconded the motion.</p>

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	<p>Mr. de la Pena asked, what are we saying?</p> <p>Ms. Tudela asked, we ae tabling because we need help to understand it.</p> <p>Chair Toyofuku stated, Disclosure Statement from Mason Chock until we receive clarification form counsel.</p> <p>Ms. Burriss clarified saying we are just tabling it that’s all.</p> <p>Vice Chair Shiraishi asked, Clarification about what the business is?</p> <p>County Attorney Sasaki stated, no, whether it’s required, you have to do due diligent with respect to conflict of interest.</p> <p>Ms Burriss replied, “or at least have some (inaudible) information about the person disclosing as to the nature of the business so we can rule it out.”</p> <p>County Attorney Maryann stated she would find out the answer.</p> <p>Ms. Tudela asked, “Are we in discussion on that?”</p> <p>Ms. Burriss stated there is no discussion on a motion to put a vote on the table.</p> <p>Ms. Tudela stated that the reason she is hesitating because our practice has always been to simply approve the Disclosures for completeness and did not ask the question about inherent conflict of an employer to her knowledge and that’s why the hesitancy and question, What are we doing?</p> <p><i>Many concerns were brought to the table.</i></p>	

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	<p>Chair Toyofuku entertained a motion to approve return of Disclosure 24 to revise section 3.</p> <p>Chair Toyofuku referred to Adam Roversi (30) under name of spouse section 1 and section 2 left blank. Both incomplete.</p> <p>Chair Toyofuku entertained the motion to approve the return of Disclosure 30 for incompleteness.</p> <p>Chair Toyofuku referred to Lyle Tabata (32)</p> <p>Vice Chair Shiraishi noted he listed his position as both Deputy County Engineer and Acting County Engineer. Board was not sure if he still held both titles and felt it needed clarification.</p> <p>Ms. Tudela recalled Mr. Tabata coming before counsel and stating at the time that he was holding both positions.</p> <p>Chair Toyofuku entertained a motion to approve returning Disclosure 32 for incompleteness of section of 3 and ask clarification on current title.</p> <p>Chair Toyofuku referred to Ludvina Takahashi (39)</p> <p>Vice Chair Mia noted she did not check a box in section one leaving it incomplete.</p>	<p>Mr. de la Pena moved to return Mason Chock (24) Disclosure form for clarification of section 3. Ms. Tudela seconded the motion. Motion carried 6:0.</p> <p>Ms. Tudela motion to return Adam Roversi (30) Disclosure form for incomplete section 2. Ms. Tabura seconded the motion. Motion carried 6:0.</p> <p>Ms. Tudela motion to return Lyle Tabata (32) Disclosure form for incompleteness of section 1. Ms. Tabura seconded the motion. Motion carried 6:0.</p> <p>Ms. Tudela moved to approve the return of Ludvina Takahashi (39) Disclosure form for completion of section 1. Ms. Tabura seconded. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
	Chair Toyofuku entertained a motion to approve returning Disclosure 39 to complete section 1.	
Executive Session	There was no Executive Session	
Announcements	<u>Next Meeting: Friday, March 15, 2019 – 1:00 p.m., Mo‘ikeha Building, Liquor Conference Room 3</u> Ms. Tudela and Mr. de la Pena noted that they would will not be attending the March 15, 2019 meeting.	
Adjournment		With no objections, Chair Toyofuku adjourned the meeting at 2:40 p.m.

Submitted by: _____
 Arleen Kuwamura, Staff Support Clerk

Reviewed and Approved by: _____
 Dean Toyofuku, Chair

- () Approved as circulated.
 (X) Approved with amendments. See minutes of 2/15/19 meeting.