

Dean Toyofuku
Chair

Mia Shiraishi
Vice Chair

Susan Burriss
Secretary

Members:
Ryan de la Pena
Maureen Tabura
Mary Tudela

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

Friday, April 12, 2019
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

Open Session Minutes of March 15, 2019

COMMUNICATION

- | | |
|-------------|--|
| BOE 2019-09 | Possible conflict of interest and recusal dated March 14, 2019, from Ross Kagawa relating to Resolution No. 2019-25, Mayoral appointment of Lori K. Koga to the Charter Review Commission. |
| BOE 2019-10 | Possible conflict of interest dated March 21, 2019, from KipuKai Kualī'i relating to Bill No. 2738, the Mayor's proposed operating budget for fiscal year 2019-2020 – appropriations for YWCA. |
| BOE 2019-11 | Possible conflict of interest dated March 21, 2019, from Arryl Kaneshiro relating to Bill No. 2738, the Mayor's proposed operating budget for fiscal year 2019-2020 – appropriations for Grove Farm Company, Inc. |
| BOE 2019-12 | Possible conflict of interest dated March 21, 2019, from Arryl Kaneshiro relating to Bill No. 2738, the Mayor's proposed operating budget for fiscal year 2019-2020 – appropriations for Kaua'i Soil Conservation. |
| BOE 2019-13 | Possible conflict of interest and recusal dated April 3, 2019 from KipuKai Kualī'i related to the YWCA of Kaua'i Disaster Preparedness Improvement Project. |

An Equal Opportunity Employer

REQUEST FOR AN ADVISORY OPINION

RAO 2019-01 Request for Advisory Opinion dated January 9, 2019, from Lyle Tabata regarding Donald Fujimoto's outside employment

BUSINESS

BOE 2019-04 Substantive Disclosures information

BOE 2018-17 Explicit recommendation on the steps to be taken at the Charter level and the administrative level to improve the **existing** countywide disclosure requirement coupled with a fine schedule for non-compliance

BOE 2019-08 Review Advisory Opinions RAO 13-006 and RAO 18-004.

DISCLOSURES

Employees

1. Kilipaki Vaughan – Deputy Fire Chief
2. Ernest Barriera – Assistant Chief Procurement Office
3. Lyle Tabata – Deputy County Engineer

Volunteers

4. Lori Koga – Charter Review Commission
5. Kurt Akamine – Board of Water Supply
6. Jen Chahanovich – Fire Commission
7. Elesther Calipjo – Board of Water
8. Leland Kahawai – Salary Commission

EXECUTIVE SESSION

ES BOE 2019-001 Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve the Executive Session meeting minutes of February 15, 2019 and to consult with its attorney on issues pertaining to the Commission's powers, privileges, immunities, and or liabilities as they may relate to this agenda item.

RETURN TO OPEN SESSION

ANNOUNCEMENTS

Next Meeting: Friday, May 17, 2019 – 1:00 p.m., Mo'ikeha Building, Liquor Conference Room
3

ADJOURNMENT

NOTICE OF EXECUTIVE SESSION

Pursuant to Hawaii Revised Statutes §92-7(a), the Board 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.

cc: Deputy County Attorney Maryann Sasaki

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
Office of Boards & Commissions
4444 Rice Street, Suite 150
Līhu'e, HI 96766
Phone: (808) 241-4881 Fax: (808) 241-5127

SPECIAL ASSISTANCE

If you need an ASL Interpreter, materials in an alternate format, or other auxiliary aid support, or an interpreter for a language other than English, please contact Anela Segreti at (808) 241-4917 or asegreti@kauai.gov at least seven calendar days prior to the meeting.

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission:	BOARD OF ETHICS	Meeting Date	March 15, 2019
Location	Mo'ikeha Building, Liquor Conference Room 3	Start of Meeting: 1:00 p.m.	End of Meeting: 4:08 p.m.
Present	Chair Dean Toyofuku, Secretary Susan Buriss. Member: Mary Tudela, Ryan de la Pena Also: Deputy County Attorney Maryann Sasaki. Boards & Commissions Office Staff: Administrator Ellen Ching and Administrative Specialist Anela Segreti.		
Excused	Vice Chair Mia Shiraishi, Maureen Tabura,		
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Toyofuku called the meeting to order at 1:00p.m. with four members present which constituted a quorum.
Approval of Minutes	<u>Open Session Minutes of February 15, 2019</u>	Minutes of February 15, 2019 accepted.
Communication	<p><u>BOE 2019-04 Substantive Disclosure Information</u></p> <p>Discussion on disclosure information and question on responsibility of Board of Ethics. Ms. Sasaki stated that it is the Boards responsibility to review for substantively review for ethical conflict and not just proof read.</p> <p>Ms. Tudela asked for clarification in understanding what she is looking for as far as a conflict of interest when she is uninformed about most of what is on the form.</p> <p>Chair Toyofuku read Charter Section 22.05, D4, Board of Ethics, Disclosures.</p> <p>Discussion lead to looking at disclosures in categories and to seek counsel advisement</p>	

SUBJECT	DISCUSSION	ACTION
	<p>when questions arise. As well as to looking at making and/or adopting rules to existing rules, redesigning form (Disclosure Statement); adding explanations in each section.</p>	<p>Mr. de la Pena moved to defer BOE 2019-04. Ms. Tudela seconded the motion. Motion carried 4:0.</p> <p>Mr. de la Pena withdrew his motion and moved to defer BOE 2019-04 substantive disclosure pertaining to the revision of the disclosure statement form. Ms. Burriss seconded the motion. Motion carried 4:0.</p>
	<p><u>BOE 2019-05 Possible conflict of interest and recusal dated February 19, 2019, from Luke Evslin relating to Bill #2733, a bill for an ordinance amending zoning designation in Kapahi, Kaua'i (Baird Family Limited Partnership, applicant) (AZ-2018-1).</u></p> <p>Chair entertained motion to approve to receive communications BOE-2019-05</p>	<p>Mr. de la Pena moved to receive communication BOE 2019-05. Ms. Tudela seconded the motion. Motion carried 4:0.</p>
	<p><u>BOE 2019-06 Possible conflict of interest and recusal dated February 19, 2019, from Arryl Kaneshiro relating to Agenda Item C 2019-44, dedication deed by Grove Farm Land Corp.</u></p>	<p>Ms. Tudela moved to receive communication BOE 2019-06. Ms. Burriss seconded the motion. Motion carried 4:0.</p>

SUBJECT	DISCUSSION	ACTION
	With no objections Chair moved RAO 2019-01 to after BOE 2019-08 and Disclosures to now.	No objections
Disclosures	<ol style="list-style-type: none"> 1. Lyle Tabata – Deputy County Engineer 2. Adam Roversi – Deputy County Attorney 3. Ellen Ching – Administrator, Office of Boards and Commissions <p>Ms. Tudela stated that no source of income was provided in Section III for #1.</p>	<p>Ms. Tudela moved to accept 2 & 3 as submitted. Mr. de la Pena seconded the motion. Motion carried 4:0.</p> <p>Ms. Burris moved to return #1 for incomplete Section II & III. Mr. de la Pena seconded the motion. Motion carried 4:0.</p>
Business	<p><u>BOE 2018-17 Explicit recommendation on the steps to be taken at the Charter level and the administrative level to improve the existing countywide disclosure requirement coupled with a fine schedule</u></p> <p>Ms. Sasaki stated that she did not write a report and wants to discuss with Board the fine schedule nuances. She read an example of a fine schedule encouraging compliance.</p> <p>Ms. Tudela stated that she prefers that there be no discretion about fines and that there be solid boundaries.</p> <p>Ms. Sasaki quoted from the Charter re: penalties.</p> <p>Ms. Tudela requested clarification of whether Board would be responsible for final penalty or fine schedule but not involved in specific cases.</p> <p>Discussion of need for a draft to see if the options to implement a fine schedule for anyone that is not disclosing as they should. Looking at the whole section and fine schedule and clarifying it. Want the fine to match the offense. Board requesting advice</p>	

SUBJECT	DISCUSSION	ACTION
	<p>and counsel regarding options that they may have to implement a fine schedule and what is the correct vehicle, Board of Ethics Administrative Rules, Charter Amendment.</p>	<p>No action</p>
	<p><u>BOE 2019-07 Discussion regarding outside employment request form.</u></p> <p>Ms. Ching recapped the discussion of last meeting regarding the form, HR form, Building division form, where did it come from. Ms. Ching handed out memos from the prior Acting Director of Personnel Services and former Mayor Bernard Carvahlo related to the form regarding outside employment. Comparing forms from memo and form that Mr. Fujimoto completed forms are identical except at the bottom where the HR form handed out says employing department action: approved or refer to Board of Ethics and form completed by Mr. Fujimoto says approved-disapproved or refer to Board of Ethics. HR is saying that form from them is what was handed out to employees, the other is the Public Works form. Section 20.02 is the basis of the form.</p> <p>Questions arose regarding why Mr. Fujimoto appearing before the Board when request came from Mr. Tabata and why was Board of Ethics reviewing. Ms. Ching researched and found that memo from former Mayor Carvahlo and Section 20.02. HR form amended by Public Works, policy stands.</p> <p>Chair Toyofuku stated that the memos clarify why the Board of Ethics reviews for conflict.</p>	<p>No action</p>
	<p><u>BOE 2019-08 Review Advisory Opinions RAO 13-006 and RAO 18-004</u></p> <p>Ms. Ching recapped discussion of prior meeting regarding Mr. Fujimoto's statements that for "fair and equal treatment" that a favorable decision was given to a prior individual of higher level of authority than he (Lyle Tabata) and therefore Board discussed reviewing that and see if any correlation to his decision.</p> <p>Members discussed both request, Mr. Tabata's and Mr. Fujimoto's. Discussed minutes</p>	

SUBJECT	DISCUSSION	ACTION
	<p>of 10/19/18 open meeting in regards to interview with Mr. Tabata. Confirmed that Mr. Tabata was RME for Kauai Veterans, Trucking vs. Construction. They did not get to detail with Mr. Tabata as did with Mr. Fujimoto.</p> <p>Ms. Tudela suggested that there is a conflict with an RME.</p> <p>Ms. Ching handed out information on definition of what an RME is and does.</p> <p>Discussion of how he can do work of RME off County time as the only employee.</p> <p>Ms. Burriss inferred that there is no circumstance under which someone who is an RME for a construction company would not have a conflict of interest in regards to any duties vis-a-vis his County Employment.</p> <p>Ms. Ching went over handouts, Hawaii Administrative Rules, RME (Responsible Management Employee) definition, highlighting that they are an employee, not a consultant, they are the licensed contractor qualifying the company as a licensed contractor. As the principle employee they are the signing authority and ultimately responsible.</p> <p>Discussion of revising, revoking or amending the prior decisions with guidance of Counsel. Pointed out there are two decisions for Mr. Tabata, but could revoke the first which could than make second invalid. To be safe could revoke both.</p> <p>Ms. Tudela stated that she is comfortable with a decision that says if you're going to be an RME we find an inherent conflict and you cannot be an employee of the County. Suggest should revoke both and make another decision that makes if you're an RME than you cannot, and vote that in, and then answer Mr. Fujimoto and say this newly in acted provision does not allow...</p>	

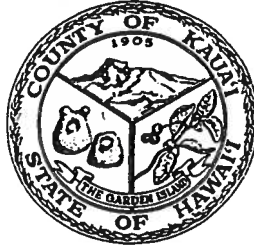
SUBJECT	DISCUSSION	ACTION
	Request to Counsel for review regarding revoking prior opinions.	Ms. Tudela moved to defer BOE 2019-08 to consider revocation. Mr. de la Pena seconded. Motion carried 4;0
Request for an Advisory Opinion	<u>RAO 2019-01 Request for Advisory Opinion dated January 9, 2019, from Lyle Tabata Regarding Donald Fujimoto's outside employment.</u> Discussed that deferral decision is based on consideration of revocation on BOE 2019-08 will set precedent on RAO 2019-01.	Ms. Tudela moved to defer RAO 2019-01 to review additional material and to receive counsel's advice. Ms. Burriss seconded. Motion carried 4:0.
	<u>Executive Session Minutes of February 15, 2019.</u> Ms. Tudela corrected spelling of her name the second time it appears.	Ms. Burriss moved to adopt the Executive Session minutes with addendum for the spelling. Motion carried 4:0
Executive Session	There was no Executive Session	
Announcements	<u>Next Meeting: Friday, April 12, 2019 – 1:00 p.m., Mo'ikeha Building, Liquor Conference Room 3</u>	
Adjournment		Mr. de la Pena moved to adjourn the meeting, Ms. Burriss seconded. Motion carried 4:0 Chair Toyofuku adjourned the meeting at 2:40 p.m.

Submitted by: _____
Anela Segreti, Administrative Specialist

Reviewed and Approved by: _____
Dean Toyofuku, 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

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


RECEIVED

MEMORANDUM

March 14, 2019

MAR 15 2019

TO: Members of the Kaua'i County Council

FROM: Ross Kagawa, Council Vice Chair 

**RE: POSSIBLE CONFLICT OF INTEREST AND RECUSAL
RELATED TO RESOLUTION NO. 2019-25,
MAYORAL APPOINTMENT OF LORI K. KOGA TO THE CHARTER
REVIEW COMMISSION**

Pursuant to Section 20.04(B) of the Kaua'i County Charter, Section 3-1.9 of the Kaua'i County Code 1987, as amended, and Rule No. 8 of the Rules of the Council of the County of Kaua'i, I hereby provide written disclosure on the record of a possible conflict of interest relating to Resolution No. 2019-25, Mayoral appointment of Lori K. Koga to serve on the Charter Review Commission, because Ms. Koga is my former campaign treasurer. Therefore, I recused myself from deliberating on Resolution No. 2019-25 during the March 13, 2019 Council Meeting.

Should you have any questions, please feel free to contact me or Council Services Staff at 241-4188. Thank you for your attention to this matter.

AMK:lc

cc: March 27, 2019 Council Meeting Agenda
County of Kaua'i Board of Ethics
Council Services Staff

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



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

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

RECEIVED

MEMORANDUM

MAR 25 2019

March 21, 2019

BOARDS & COMMISSIONS

TO: Arryl Kaneshiro, Council Chair
and Members of the Kaua'i County Council

FROM: KipuKai Kualii'i, Councilmember *KipuKai Kualii'i*

RE: **POSSIBLE CONFLICT OF INTEREST RELATING TO
BILL NO. 2738, THE MAYOR'S PROPOSED OPERATING
BUDGET FOR FISCAL YEAR 2019-2020 - APPROPRIATIONS
FOR YWCA**

Pursuant to Section 20.04(B) of the Kaua'i County Charter, Section 3-1.9 of the Kaua'i County Code 1987, as amended, and Rule No. 8 of the Rules of the Council of the County of Kaua'i, I hereby provide written disclosure on the record of a possible conflict of interest relating to Bill No. 2738, the Mayor's Proposed Operating Budget for Fiscal Year 2019-2020 regarding the appropriation to Sexual Assault/Domestic Violence Community Program in the Office of Economic Development - Administration, as I am the Director of Operations for the YWCA. The YWCA may be a potential applicant for these funds.

In light of the above, I will recuse myself from the aforementioned items during the Fiscal Year 2019-2020 Departmental Budget Reviews, Budget Call-Backs, and Decision-Making, related to these items, and any subsequent meeting thereafter related to these items.

Should you have any questions, please feel free to contact me. Thank you for your attention to this matter.

JA:jy
cc: April 10, 2019 Council Meeting Agenda
County of Kaua'i Board of Ethics
Council Services Staff
Fiscal Year 2019-2020 Budget File

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

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

MEMORANDUM

March 21, 2019

RECEIVED

MAR 25 2019

TO: Members of the Kaua'i County Council

FROM: Arryl Kaneshiro, Council Chair *AK*

RE: **POSSIBLE CONFLICT OF INTEREST RELATING TO BILL NO. 2738, THE MAYOR'S PROPOSED OPERATING BUDGET FOR FISCAL YEAR 2019-2020 – APPROPRIATIONS FOR GROVE FARM COMPANY, INC.**

BOARDS & COMMISSIONS

Pursuant to Section 20.04(B) of the Kaua'i County Charter, Section 3-1.9 of the Kaua'i County Code 1987, as amended, and Rule No. 8 of the Rules of the Council of the County of Kaua'i, I hereby provide written disclosure on the record of a possible conflict of interest relating to Bill No. 2738, the Mayor's Proposed Operating Budget for Fiscal Year 2019-2020 regarding the appropriation to Grove Farm (Puhī Metals Recycling) Liabilities in the Department of Finance – Administration and 800 MHz Radio Site Lease: Grove Farm appropriation in the Emergency Management Agency, as I am a Project Manager employed by Grove Farm Company, Inc.

In light of the above, I will recuse myself from the aforementioned items during the Fiscal Year 2019-2020 Departmental Budget Reviews, Budget Call-Backs, and Decision-Making, related to these items, and any subsequent meeting thereafter related to these items.

Should you have any questions, please feel free to contact me. Thank you for your attention to this matter.

JA:lc

cc: April 10, 2019 Council Meeting Agenda
County of Kaua'i Board of Ethics
Council Services Staff
Fiscal Year 2019-2020 Budget File

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

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

MEMORANDUM

March 21, 2019

TO: Members of the Kaua'i County Council

FROM: Arryl Kaneshiro, Council Chair AK

**RE: POSSIBLE CONFLICT OF INTEREST RELATING TO
BILL NO. 2738, THE MAYOR'S PROPOSED OPERATING
BUDGET FOR FISCAL YEAR 2019-2020 - APPROPRIATIONS
FOR KAUA'I SOIL CONSERVATION**

Pursuant to Section 20.04(B) of the Kaua'i County Charter, Section 3-1.9 of the Kaua'i County Code 1987, as amended, and Rule No. 8 of the Rules of the Council of the County of Kaua'i, I hereby provide written disclosure on the record of a possible conflict of interest relating to Bill No. 2738, the Mayor's Proposed Operating Budget for Fiscal Year 2019-2020 regarding the appropriation to Kaua'i Soil Conservation in the Department of Public Works – Grant-In-Aid, as I am a Director for the East Kaua'i Soil & Water Conservation District.

In light of the above, I will recuse myself from the aforementioned items during the Fiscal Year 2019-2020 Departmental Budget Reviews, Budget Call-Backs, and Decision-Making, related to these items, and any subsequent meeting thereafter related to these items.

Should you have any questions, please feel free to contact me. Thank you for your attention to this matter.

JA:lc

cc: April 10, 2019 Council Meeting Agenda
County of Kaua'i Board of Ethics
Council Services Staff
Fiscal Year 2019-2020 Budget File

COUNTY COUNCIL

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



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

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

RECEIVED

MEMORANDUM

April 3, 2019

APR 4 2019

BOARDS & COMMISSIONS

TO: Arryl Kaneshiro, Council Chair
and Members of the Kaua'i County Council

FROM: KipuKai Kualii'i, Councilmember *KipuKai Kualii'i*

RE: **POSSIBLE CONFLICT OF INTEREST AND RECUSAL
RELATED TO THE YWCA OF KAUA'I DISASTER
PREPAREDNESS IMPROVEMENT PROJECT**

Pursuant to Section 20.04(B) of the Kaua'i County Charter, Section 3-1.9 of the Kaua'i County Code 1987, as amended, and Rule No. 8 of the Rules of the Council of the County of Kaua'i, I hereby provide written disclosure on the record of a possible conflict of interest relating to the YWCA of Kaua'i Disaster Preparedness Improvement Project in the Kaua'i County 2019 Action Plan for the Community Development Block Grant (CDBG) Program, because I am employed at the YWCA of Kaua'i. Therefore, I will recuse myself from deliberating on the forthcoming Resolution authorizing the filing of the Kaua'i County 2019 Action Plan for the CDBG Program.

Should you have any questions, please feel free to contact me or Council Services Staff at 241-4188. Thank you for your attention to this matter.

AMK:lc

cc: April 10, 2019 Council Meeting Agenda
County of Kaua'i Board of Ethics ✓
Council Services Staff



DEPARTMENT OF PUBLIC WORKS
 ADMINISTRATION
 THE COUNTY OF KAUAI
 DEREK S. K. KAWAKAMI, MAYOR
 MICHAEL A. DAHLIG, MANAGING DIRECTOR

LYLE M. TABATA
 DEPUTY COUNTY ENGINEER

RECEIVED

JAN 14 2019

INTER - DEPARTMENTAL TRANSMITTAL

BOARDS & COMMISSIONS

PRIORITY URGENT ROUTINE DEADLINE:
 ACTION REQUESTED SIGNATURE EDIT OTHER: Review


DATE : 1/09/19
 TO : Ellen Ching, Boards & Commissions Administrator
 FROM : Lyle Tabata, Deputy County Engineer
 SUBJECT : Donald Fujimoto – Outside Employment Request
 COMMENTS : Please forward the attached Outside Employment Request to the Board of Ethics for their review and opinion. Mahalo.

ROUTING INSTRUCTION : 1. Forward signed original or PDF to Alison Togioka
 2.
 3.

CONTACT PERSON : Alison Togioka


CONTACT NUMBER : X 4996

RAO 2019-01

	<p>POLICY AND STANDARD OPERATING PROCEDURE</p>	
<p>County of Kauai Department of Public Works</p>	<p>Outside Employment</p>	<p>Original: 1/4/19</p>

DEPARTMENT OF PERSONNEL SERVICES
COUNTY OF KAUAI

OUTSIDE EMPLOYMENT REQUEST

1. Employee Name: Donald M. Fujimoto 
2. Employing Department: Public Works, Engineering Division
3. Immediate Supervisor's Name: Michael Moule
4. Job Title: CE VI (Project Management Engineer)
5. Job Duties and Responsibilities:
Manage Construction Section of the Engineering Division and various CIP projects.
Manage the STIP Bridge Inspection program for the County.
Inspect and ensure compliance with applicable County, State, Federal codes, rules, statues, laws and tandards for construction both private and county.
Manage consultant contracts for various county projects, (design, construction management, planning)
6. Outside Employment Information:
- A. Company Name: Donald M. Fujimoto RME (self) / Random firms and individuals
- B. Type of Business: General Construction License RME-ABC 12161
- C. Business Address: 3339 Unahe Street,
Lihue, HI 96766
- D. Business Phone: (808) 652-6538
- E. Job Title: Responsible Managing Employee
- F. Job Duties and Responsibilities:
Hold the contractors license for a corporation conducting construction work requiring a contractors license.
Provide construction management services to firms or individuals for various construction projects.
- G. Work Hours: After 4:30 pm on weekends and on holidays.

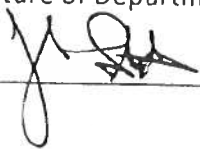
EMPLOYING DEPARTMENT ACTION:

Approve

Disapprove

Refer to Board of Ethics

Signature of Department Head/Representative:



Date: 1/8/19

County of Kaua'i

Board of Ethics

Advisory Opinion RAO 13-006

The County of Kaua'i Board of Ethics ("Board") received a letter dated July 29, 2013, from Lyle Tabata, Deputy County Engineer for the Department of Public Works, as to whether there is a conflict of interest for him to act as the RME for a local General Contracting firm while acting in his current capacity for the Department of Public Works.

Background

Mr. Tabata is currently the Deputy County Engineer for the Department of Public Works. In Mr. Tabata's July 29, 2013 letter he writes that his role in Public Works is in "an administrative role" and that he does "not directly supervise anyone in the Building regulatory plans review and inspection and Engineering regulatory plans and inspection sections." Mr. Tabata stated at the Board's August 23, 2013 meeting that if he is allowed to act as RME for his General Contracting firm that his firm will not be contracting with the County. Further, Mr. Tabata stated that he would not do work for his firm on County time.

Applicable Law

County of Kaua'i Charter, Section 22.02(E) states that:

No officer or employee of the county shall...[u]se his official position to secure a special benefit, privilege or exemption for himself or others.

County of Kaua'i Charter, Section 22.04(B) states that:

Any elected official, appointed officer, employee, or any member of a board or commission who possesses or acquires such interest as might reasonably tend to create a conflict with his duties or authority, or who is an owner, officer, executive director or director of an organization, or whose member of his immediate family, which includes parents, siblings, spouse or children, is an owner, officer, executive director or director of an organization in any matter

BOE 2019-08

pending before him shall make full disclosure of the conflict of interest and shall not participate in said matter.

Opinion

The Board of Ethics discussed the application of sections 22.02(E) and 22.04(B) to Mr. Tabata's request and concluded that Mr. Tabata's proposed dual employment would not create any inherent conflicts. However, the Board conditioned its approval of Mr. Tabata acting as RME for his firm on the requirement that Mr. Tabata remain in compliance with section 22.02(E) by not securing a special benefit for himself or others, and that he remain in compliance with section 22.04(B) by refraining from making a decision which might "reasonably tend to create a conflict...in any matter pending before him." Also, the Board cautioned that further activity may raise a conflict which would require disclosure.

Inasmuch as the Board's discussions as concerning this matter were conducted in a duly noticed open meeting of the Board of Ethics, no redacted version of the Advisory Opinion shall be prepared.

With a quorum present and voting, this opinion was rendered by the Board at its meeting on September 20, 2013.

Members present and in favor: Warren Perry, Paul Weil, Brad Nagano, Mark Hubbard, and Calvin Murashige.

Dissenting: None.

Abstain: Kathy Clark.

Board of Ethics:


Kathy Clark, Chair

Michael Curtis
Chair

Maureen Tabura
Vice Chair

Mia Shiraishi
Secretary



Members:
Susan Burriss
Ryan de la Pena
Mary Tudela
Dean Toyofuku

COUNTY OF KAUA'I BOARD OF ETHICS

c/o Office of Boards & Commissions

4444 Rice Street, Suite 150

Līhu'e, HI 96766

December 14, 2018

Lyle Tabata
c/o Department of Public Works
4444 Rice Street, Suite 275
Līhu'e, Hawai'i 96766

RE: Advisory Opinion RAO 18-004

Dear Mr. Tabata:

On Friday, October 19, 2018, the Board of Ethics met and discussed your request for advisory opinion (RAO 18-004) dated October 9, 2018.

The Board rendered its opinion that based on the information provided there is no conflict of interest. Enclosed with this letter is the formal written advisory opinion.

If you should have any questions or concerns, please feel free to contact me at (808) 241-4456, or via email at dagaran@kauai.gov.

Mahalo for notifying the Board of your concerns and providing them the opportunity to consider the matter.

Sincerely,

Darcie Agaran
Boards and Commissions Support Clerk

Enclosure: Advisory Opinion RAO 18-004

An Equal Opportunity Employer

BOARD OF ETHICS

COUNTY OF KAUA'I

ADVISORY OPINION RAO 18-004

The Kaua'i County Board of Ethics ("Board"), having reviewed a request for an advisory opinion from Lyle Tabata, Acting County Engineer, and having obtained all the information deemed necessary by the Board to make a proper determination regarding the subject request, renders this Advisory Opinion (RAO 18-004) pursuant to the Charter of the County of Kaua'i and Rule 5 of the Kaua'i County Board of Ethics Rules and Regulations.

BACKGROUND

The Board received a request dated October 9, 2018 from Lyle Tabata, Acting County Engineer, questioning whether there is a conflict of interest relative to his serving as the Responsible Managing Employee of Kaua'i Veterans Express Company, Ltd.

On October 19, 2018, the Board convened in regular session to consider providing an advisory opinion on the above referenced request. The Board was advised that Acting County Engineer Tabata was in attendance at the meeting and was prepared to respond to any questions.

APPLICABLE LAWS

With regard to this request, the Board considered the following provisions of the Kaua'i County Charter in rendering this Advisory Opinion:

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

* * * * *

- C. Acquire financial interest in business enterprises which the officer or employee may be directly involved in official action to be taken by the officer or employee.
- D. Appear on behalf of private interests before any county board, commission, or agency.
- E. Use the officer or employee's official position to secure a special benefit, privilege, or exemption for the officer or employee or others.

OPINION

Based on the foregoing Code of Ethics provisions contained in the Kaua'i County Charter, the representations of Lyle Tabata, including his assurance that Kaua'i Veterans Express Company, Ltd., will not contract with the County of Kaua'i to perform any work or services, the Board finds that there is no conflict of interest prohibiting Lyle Tabata from serving as the Responsible Managing Employee of Kaua'i Veterans Express Company, Ltd.

Inasmuch as the Board's discussions and deliberations concerning this matter were conducted in a duly noticed open meeting of the Board of Ethics, no redacted version of the Advisory Opinion shall be prepared.

With a quorum being present and voting, this opinion was rendered by the Board at its meeting on October 19, 2018.

Members present and voting:


Concurring: Michael Curtis, Susan Burriss, Mary Tudela, Dean Toyofuku, and Ryan de la Pena.

Dissenting: None

Abstaining: None

Excused: Mia Shiraishi and Maureen Tabura

Board of Ethics:



Michael Curtis, Chairperson