

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, August 23, 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 July 19, 2019

COMMUNICATION

None

REQUEST FOR AN ADVISORY OPINION

RAO 2019-05 Possible Conflict of Interest and Request for Advisory Opinion dated July 10, 2019, from Mason Chock relating to Bill No. 2752, a bill for an ordinance amending zoning designation in Puhi, Kaua'i (Island School, Applicant) (ZA-2019-2).

RAO 2019-06 Possible Conflict of Interest and Request for Advisory Opinion dated July 15, 2019, from Arryl Kaneshiro relating to participation on the technical advisory committee for the Lihue Airport Master Plan.

BUSINESS

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. Memorandum to Board of Ethics.

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

BOE 2019-22

Discussion on Board putting out a notice to County employees regarding ethics requirements for former employees.

DISCLOSURES

Employee/Elected Official

1. Arthur Brun, County Council

Volunteer

2. Kevin Mince, Police Commission
3. Reid Kawane, Charter Review Commission

EXECUTIVE SESSION

Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (2) and (4), §92-6 (a) (b), 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-003

Executive Session Minutes of July 19, 2019

ES-004: BOE 2019-22

Memorandum dated August 8, 2019 from Deputy County Attorney Maryann Sasaki regarding ethics hearing procedure.

ES-005: BOE 2019-23

Information gathering, discussion and decision-making as relates to a draft Resolution 2019-1 on whether the Board of Ethics shall initiate an investigation under Rule 6.2 into an allegation that 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.

RETURN TO OPEN SESSION

Ratify Board actions taken in Executive Session.

ANNOUNCEMENTS

Next Meeting: Friday, September 20, 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) 241-4917 Fax: (808) 241-5127

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 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.

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

| | | | |
|-------------------|---|-----------------------------|---------------------------|
| Board/Commission: | BOARD OF ETHICS | Meeting Date | July 19, 2019 |
| Location | Mo‘ikeha Building, Liquor Conference Room 3 | Start of Meeting: 1:00 p.m. | End of Meeting: 2:53 p.m. |
| Present | Chair Dean Toyofuku, Vice Chair Mia Shiraishi, Secretary Susan Burriss. Members: Ryan de la Pena, Mary Tudela, Maureen Tabura Also: Deputy County Attorney Maryann Sasaki. Boards & Commissions Office Staff: Administrator Ellen Ching and Administrative Specialist Anela Segreti. Testifiers: Michael Dahilig, County Clerk Jade Fountain-Tanigawa, Council Member Felicia Cowden, Elena Branson, Cynthia Lazorhoff, Bruce Allyn | | |
| 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 June 28, 2019</u> Page 2 under action should be too not to. | Ms. Tabura moved to approve the minutes of June 28, 2019 as amended, seconded by Ms. Tudela. Motion carried 5:1 abstention Mr. de la Pena not present for meeting. |
| Business | Chair Toyofuku moved item BOE 2019-21 out of order. <u>BOE 2019-21</u> Communication dated July 3, 2019 to Michael Dahilig from Dean Toyofuku regarding clarification on Section II of Disclosure Statement. | |

| SUBJECT | DISCUSSION | ACTION |
|-----------------------------|--|---|
| | <p>Michael Dahilig, Managing Director, testified regarding Section II of his Disclosure Statement, regarding self-employment. Mr. Dahilig stated that he is a licensed attorney and his license is currently inactive. Previously he has appeared as an expert witness in the areas of land use and (inaudible). He occasionally gets calls to serve as an expert witness though he has not, in quite a while. He did have an active GET license for these types of activities, but the number is no longer active. He does not intend to engage in these activities, and is not currently on contract, but if he is asked he will come before the Board.</p> | <p>Ms. Tudela moved to approve the original disclosure statement with no conflict, providing that if he was to take this kind of employment he will come before the Board. Ms. Burriss seconded. Motion carried 6:0</p> |
| <p>Communication</p> | <p><u>BOE 2019-18 Possible conflict of interest dated May 9, 2019, from Felicia Cowden relating to Agenda Item C 2019-102, relating to a donation from the Russian Center New York for travel related expenses.</u></p> <p>Chair Toyofuku stated that the Board will be receiving the communication. Ms. Felicia Cowden requested to testify.</p> <p>The testimonies heard will be verbatim in the minutes.</p> <p>Felicia Cowden I deeply appreciate the time that you are spending with me right now. My name is Felicia Cowden and I am one of your County Council people. And this item that I had put in was intended to be done in May before I went to Russia. And I don't know if you guys got a chance to read my testimony, there's some confusion because I was going as a Council person and then I shifted to a citizen. I can speak to that in a moment, and why there's a little bit of confusion. But why it's really important for me to not just have this received is there was an I-U-P-A or U-I-P-A request by our former County Attorney, Mauna Kea Trask, to ask for the information on it, and I looked to see what he had to say. So he said, his rationale, "my request obviously pertains to the</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|---|--------|
| | <p>operations or activities to an agency of County Council via it's member, Felicia Cowden, because based upon her own op ed, I believe that Council Member Cowden inappropriately accepted funds from the state owned Russian oil shipping companies and American multi-national petroleum company and think tank, which is alleged to be engaging pro Kremlin policies, and developing into an unwitting tool of Russia's political interference. These documents including emails and internal Counsel communications are not readily available to the public and my primary intention is to widely disseminate this information to the public at large. I intend to write a counter op ed to The Garden Island regarding this subject, but if they don't publish it, I can easily disseminate this information to the public via the internet". You can see I'm shaking, it really hurt me, I thought he was my friend and it's not about being friends, but I was really surprised by this because he was the County Attorney under Mayor Carvalho who received this group that came in October of 2017 and had affirmed for Mayor Carvalho that when these group of Russian Americans, primarily, were here, he okay'd it, and I got that also from Mayor Carvalho. I don't know if you all got it. Did anybody get a chance to read this? I sent it on Wednesday, I only learned about this event on Wednesday, and what I explained in here, and by the way, I have, I can't say it out loud, I brought two (2) world class American Diplomats, they happen to live in Anahola, their focus is on Russian American relations and they work with this element, so I can have them speak, so you can go if you need to quickly. I also brought Elena Branson who managed all the funding. She is an American citizen, everybody who is involved</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|--|--------|
| | <p>with the funding is an American citizen. I will let them really speak to where this came from.</p> <p>Anela Segreti: (3) minutes chair.</p> <p>Ms. Cowden: Really I only get three (3) minutes.</p> <p>Chair Toyofuku: You can come back up.</p> <p>Ms. Cowden: Okay, so then these guys can come next.</p> <p>Chair Toyofuku: Anybody else wishing to testify.</p> <p>Bruce Allyn: Yes, for the record, Bruce Allyn, I live in Anahola. I started working in US Russian relations in 1976, I travelled to the Soviet Union in 1978 and I currently am faculty at Harvard Law School of (inaudible). I travel Russia frequently and Felicia showed me the statement she just read and I want to state in particular regarding the sponsoring organization is the Fort Ross Dialogue, which is something that's been going for ten (10) years in San Francisco and Russia. Previous attendance as far as I understand has been Governors Schwarzenegger, Jerry Brown, and the sponsoring organization which I referred to is a pro-friendly institution. What she just read is the Kennan Institute of the Wilson Center, one (1) of the top five (5) think tanks in the world, part of the Smithsonian, and so I advised Felicia along the way, that this is a very reputable, professional, cultural exchange. So I simply, you know, in hearing that, I want that to be clear. Happy to follow up in detail, because I have spent</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|---|--------|
| | <p>thirty (30) years in this and know personalities, I publish on this topic regularly, and I would be delighted, it's something that in this toxic environment with Russia, where we have very serious political differences, (inaudible) , that is the time when we more than ever need the cultural exchange. I, myself, have never been to the Russian Fort, I was there this morning at the meeting, just to learn of those involved in the organizing this. And it was a meeting that I felt very happy to listen to, hearing the tales of those who went on this trip and the value of the cultural exchange and the fact that I don't see anything political involved. I don't see an unwitting tool of any of the people involved. So happy to follow up on that, because it is important I think that there be clarity on this.</p> <p>Chair Toyofuku: Thank you. Anyone else.</p> <p>Elena Branson: I'm Elena Branson, I'm President of Russian Center New York and Chair of the Russian Community Council. I'm representing the Russian community in the USA. I came here to the island, I come here (inaudible) for the last seventeen (17) years and here is my place that I like to probably retire, I love. So when we found out this Russian Fort, we decided to help, we decided to do something, cause this two hundred (200) years of the Fort, so we decided to do this conference, it was two years ago. So we invited, who could come, the Mayor given the welcoming speech (inaudible). We're so glad. (Inaudible), but there's this working group, working this. We decided it would be great to invite people to Russia, just to share our common history, our culture, and there was this conference, this national (inaudible).</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|--|--------|
| | <p>It started in San Francisco, nine years it was in San Francisco, and go every year in San Francisco, and then it started this second part in Russia. So we decided to bring people to conference, and a few people in our group were speakers (inaudible). Our intention was to build our Kauai community, and we're so glad that some people were able to come, and Felicia, could come as a private citizen. She always said, "I'm going there as a private citizen without the funds, (inaudible) were either going from my personal account as a private citizen". Then I found sponsor, who is Susan Carmel, she has American University called Carmel Russian American Cultural (inaudible). So she gave me some money, and it was all very short notice. So we got sponsor that's why we were able to come, it was wonderful cultural (inaudible). (Inaudible) people came and you know they were showing all these pictures, it was wonderful. It's good to have this cultural, this cultural exchange. Which is so important and we would like to do the cultural you know, (inaudible) Hawaiian culture here in October. (Inaudible).</p> <p>Anela Segreti: Three (3) minutes.</p> <p>Chair Toyofuku: Three (3) minutes. You can come back up if you want to. Thank you. Anybody else wishing to testify?</p> <p>Cynthia Lazorhoff: For the record I'm Cynthia Lazorhoff, I live on a family farm in Anahola and I'm (inaudible) for the opportunity to share this testimony. We heard about this trip from Felicia and we were actually in Russia. I, like Bruce, have spent much of my life in Russian American relations. I made my first trip to what was the</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|---|--------|
| | <p>Soviet Union in 1978. Much of my work has been in the field of people to people diplomacy starting during the cold war, with children, with adults, people of all ages. When Felicia asked us about the trip we asked to review, who was sponsoring in terms of the organizations, and who was participating, and Bruce and I together looked at the delegations, the people involved and really both looked, said to Felicia this is sponsored by the Kennan Institution, Kennan Institute, they're one of the top think tanks in the world. As Bruce said they are really the gold standard in the field. Named after George Kennan, one of the great statesmen in the United States of the 20th (inaudible) century, last former Ambassador of the Soviet Union, author of, "The Policy of Containment" and very much revered in the field, as is the head of the institute, Matthew Rojansky, it is considered among our colleagues the place (inaudible) people to speak, to have the opportunity to be engaged in relations. So I just want to reiterate that we, when we saw this, we said Felicia we think that this is actually really solid, you couldn't be going to a more prestigious, in many ways, event. So, we, our approach is that despite enormous differences that we have politically, we think that it is very important that in these times when there is an increasing risk of war and we are told by experts like former Secretary of Defense, William Perry, that it is greater than any time in history, even at the crisis moments of the cold war, that it is important to engage as people to people and to really look at our shared interest such as the existential threats of climate change (inaudible). So legally that means that these kinds of exchanges can really play a role in, in a difference, and we understood from Felicia, always, that she in no way had any</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|---|--------|
| | <p>disillusions about the political differences. That she wanted to go and see with her own eyes, as a citizen, what life is like there, and to form her own opinions. So, we said that we thought that that would be a wonderful thing if she felt that she was able to do that and so that was the context that we found out about the trip and spoke to Felicia about it. So...</p> <p>Chair Toyofuku: That's your three (3) minutes. Thank you. Anybody else wishing to testify?</p> <p>Mauna Kea Trask: For the record Mauna Kea Trask. I've been (inaudible), I am Mauna Kea, I've been Mauna Kea for thirty-nine (39) years and I have not changed my name recently regarding any popular stuff in the news. But, that was a joke (inaudible). For the record, I am the old County Attorney that has been talked about. So, I know Felicia, I know that a lot of people, when I was still County Attorney, there was this thing about Pa'ula'ula, called Russian Fort. Now, pardon me, you want to go look at the history of it, go ahead, I'm a history guy. Read Kuykendall, R. Kykendall, (inaudible) Volume 2, he goes over the Russian Fort was a result of this guy, Dr. Sheffer, he's a German, working with the Russian-American Company back then. Hawaii was in political flux, Kamehameha and Kaumuali'i had a thing, Kaumuali'i kinda felt (inaudible) Kamehameha and Sheffer was a 19th century kind of adventurous guy who was doing his thing, what they do, kind of half pirate, half adventurer. After a while in, this is all history, Kamehameha wouldn't allow him back on Oahu and decided the kingdom, Kaumuali'i kind of housed him for a minute, worked on Russian Fort and that place in Princeville another Russian</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|---|--------|
| | <p>(inaudible). Then he got sick of Sheffer, told Kamehameha hey help me with this guy, he's kind of crazy. So Kamehameha told him, you beat it or you die. So Sheffer, the story is he put on a woman's dress and a head piece and bailed. He then went back to St. Peter or Arch Angel at the time, talked to the Czar and said hey there's this opportunity in Hawaii. The Czar said we're not interested in that, we're cool with Hawaii and we got relationship with them and you're unsanctioned, beat it. And that was it, that's the Russian History, you know for the Russian Fort, Pa'ula'ula. So, let me be brief. So, in the Fall of last year, I get this email from Victoria Wichman, she says, Mauna we need your help, we got this issue. We're trying to, as many indigenous people are throughout the Country and the World, not whitewash history, because they're not white washers, they want to appropriately declare it. Kaumuali'i, that wasn't a Russian fort, it had Russian involvement to a certain extent, but Kaumuali'i lived there for a long time, prior and post the Sheffer incident. And so I wrote an email, I did my research, I wrote an email, I thought that was it, I never heard from her again. I never met the Russian contingent; I never met Ms. Branson, at least now she has an opportunity to know who I am, I stay away from that stuff. I don't recall Mayor ever asking or meeting with Russians, I would have told him no, because I wrote an email saying, if Aunty Alethea Kaohi, on the west side wants to name it Pa'ula'ula, and my understanding at the time, was the Aunty's at the Hawaiian Civic Clubs.</p> <p>Ms. Segreti: 3 minutes.</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|--|--------|
| | <p>Mr. Trask: I understand, I'll come back I suppose.</p> <p>Ms. Cowden: So, I'm glad Mauna Kea brought up some of that conflict. I tell you, I didn't know anything about any of it. I had been asked to come and help in this conversation from somebody I knew, Lana Anderson, head of the Russian Hawaii Cultural Group, whatever, and she knew me from my KPCR time in helping different people facilitate stuff, also known me as a Councilperson, but that's how she knew me. She asked me to come and get involved, just mediating a little bit, so I did. He's pulling one side, I don't even care about the reality of what happened, I know it's complicated, there's as many sides of history as there are people to tell it, that's not my attachment. I had Elena respond and say, hey, can you get a group from the Fort, the park group to come. So I was trying to work on that, I asked a whole bunch of people. He got my emails, he saw how many people I asked. There's an issue in here that I put in here to try to explain, I've explained it Mauna too, because I called him after I got this, I thought we were friends, not that it's about that, but I wanted to just give him full clarity. And, you know I did everything I could, the whole time, I've even given him information and I was giving the Commander of the Base, talked to Brian Schatz, I was giving as much information out. But the night before I was finally going to go in front of the Council, the FBI finally called me to come through the (inaudible). And when I talked to them they really, really wanted me to go. The only caveat was I couldn't tell anybody I talked to them. So, I was like, yeow, you know, I don't want to go. I pulled my name because I didn't want to go. I can't lie like that. A lie of omission, it wasn't important to me, I stopped the thing about being able to go. So</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|--|--------|
| | <p>that's why I didn't go in front of the Council. I was never required to go in front of the Council because there's nothing about being a Councilperson, except for (inaudible), I was trying to get everything done right. And, so, then the FBI guys came over and saw me for three hours, (inaudible), and they still were trying to get me to go, and they said you can tell people, you can tell people. They wanted me to go cause they wanted to know what was there. I didn't want to feel like a spy. I told her, when they said I could, I still was trying to find other people. See all these emails they took from me, the very last minute I went, because Bernard couldn't go, (inaudible) couldn't go, you know a whole bunch of other people that had better koko than me, I'm not even from the west side. And then Kipu Kai and Mason said, hey just go, there's no reason you can't go. Ugh...so, I decided to go and I went and this, cause I talked to Mauna Kea, he told me he's going to take me out of office...</p> <p>Chair Toyofuku: 3 minutes.</p> <p>Ms. Cowden: ...he said it's going to ruin my career, he said I belong in prison.</p> <p>Mr. Trask: Mauna Kea Trask. I don't want Felicia in prison, I don't want any of this smoke at all, are you kidding me? I was in this County, you can read the ethics opinions I submitted for myself. \$35 for the Kauai Humane Society, don't go Mauna, okay fine, not interested. I followed the ethics. The thing you got here, it's not about Russia or the diplomacy. Yeah, the, obviously County Council members can't go. But the question is this, look at, talk about what's going on in the world, and let's not comment on</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|--|--------|
| | <p>the Country, but the election got hacked. It's clear. There is a different world that is around, not being conspiratorial, it's true. Russian Fort, is a, it's a hot place, it's not, the bathrooms aren't taken care of well by DLNR, not County, DLNR, but it's like a stones throw away from PMRF. It's concerning.</p> <p>Councilmembers do have authority. I'm being shook done right now, I'm not even relevant, I'm not, but I did deal with ethics. I do know how lines work, I do know that your civil servants are looking at the Mayor, seeing what the Mayor can do, they looking at Councilmembers, seeing what they can do. Cause if she can take five grand or 2 or 3 thousand and go to Russia and not have to go in front of the Council for acceptance when Justin Kollar has to go for 10 grand to get DV grant, KLA, life guards have to accept stuff. That's ethics, that's the County issue. I mean, the documents, look right here, I'm not making this up. Fort Ross Dialogue organized with San Francisco based Fort Ross Conservancy held annually with support of Chevron, Transneft, Sovcomflot. Transneft is a Russia state owned Russian Transportation monopoly, largest pipeline company in the world, Sovcomflot 100% Russian owned maritime shipping company, they run oil too. I don't want any of this smoke, for the record. You know, I don't want to mess with the Russians, I don't want to mess with Felicia, okay, but when she files an ethics opinion on April 16th and then follows up with a May 9th, I will not be travelling to Vologda, to attend the International Peace Conference and then she comes back after she attends the Russian Vologda conference with an op ed saying I went to Russia, when she told you she wasn't going to go, and she says oh, that wasn't me Felicia, it wasn't me Councilmember, it was</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|---|--------|
| | <p>me Felicia, when she's on the record ragging on Ross because he's not 24/7 enough and she's the number 1 24/7 lady. I don't want this heat, yeah, there's like thousands of email, 400 emails and thousands of gigabytes of data, I bill, I got a firm, and please don't hit my clients. I wasn't going to write anything about this, I talked to Ryan Collins, and I was look, if you write something are you going to sue Felecia, no, I gave it to him. I don't want this thing, so if you do I'll give it to you, okay. Cause now I'm a citizen and I got a right to ask for emails, I'm gonna do it, it's nothing personal, I got nothing about Russians, you know, but like hey, I tell you, I've seen it, there's issues with the County and be aware as the ethics board that your workers are looking this way and how come Felicia didn't have to go, what can I do, I run permits, I check meters. It's about ethics, this is what this is about.</p> <p>Chair Toyofuku: Thank you. Anybody else wishing to come forward? Jade? No?</p> <p>Jade Fountain-Tanigawa: (Inaudible) I don't know if it's appropriate to hand it out now?</p> <p>Ms. Segreti: You want me to do it?</p> <p>Ms. Fountain-Tanigawa: Good afternoon, Chair Toyofuku and members of the Ethics Commission. My name is Jade Fountain-Tanigawa and I am the County Clerk. I just wanted to recap procedurally what occurred with the documents your office received. If I could just read the document.</p> <p>Read letter dated July 19, 2019 re: July 19, 2019 – Board of</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|--|--------|
| | <p>Ethics (BOE) Item BOE 2019-18 (on file).</p> <p>Chair Toyofuku: Thank you. Anyone else wishing to testify?</p> <p>Ms. Branson: I just would like to add. I didn't understand.</p> <p>Ms. Tudela: Could you tell us your name again, please.</p> <p>Ms. Branson: Oh yes, sure. Elena Branson, Chair of Russian Community Council. I didn't understand this comments about, oil (inaudible) companies, because they didn't sponsor the trip. The trip was sponsored by, you know, I bought the ticket, I have it with me, I can show it to you, all of the conditions that you need, I bought it, you know, hotels and the ticket. I bought it myself. So, I didn't understand this, and I think it was so great that the people from Kauai, it's a cultural exchange. It's so nice, it's so good, because we are (inaudible) this struggle. Which you know as a Russian-American, I really feel the heat of this, and I think it's so good to have it, it, this get together, you know good way, you know good stuff. That's the only thing I want to. Thank you.</p> <p>Chair Toyofuku: Thank you.</p> <p>Ms. Ching: Chairman, may I respond?</p> <p>Chair Toyofuku: Sure.</p> <p>Ms. Ching: I just wanted to clarify for the members of the board the chronology that we got all of these letters and how it is that it is</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|---|--------|
| | <p>on the agenda today. And so, initially we received a letter dated April 16, and that was received by the Office of Boards and Commissions on April 22. And it was a request for an advisory opinion to the Board of Ethics and included with the request was an invitation and the proposed itinerary for the trip to Russia. The second thing that happened is that there was a letter dated May 9 and that was received on May 9 and that request was to withdraw the initial request for an advisory opinion, at that time we were in the middle of drawing up the agenda for the May 17th meeting, so the request for the advisory opinion was initially on the agenda, and then when we received that request to withdraw it, we withdrew the whole thing, and that's why on your May 17th meeting you did not receive any of these items associated with the request. So the agenda was amended and then it was posted. Subsequent to that, we received another letter dated May 9th which is what you have on your agenda, stating the possible conflict of interest, and that is the letter that is on your agenda today. However, it could not be included on the May agenda as the agenda was already posted. The next Board of Ethics meeting took place on June 28th, and I need to apologize to Councilmember Cowden, I omitted including this item on the agenda for the June 28th meeting, but I should, I have to note that the trip had already taken place on June 2nd to the 4th. So even if we had put it on the agenda on June 28th the trip had already happened, and because it's a letter that we received for the Board of Ethics, and we omitted the June 28th that is why it is now on the July, your July agenda today. I apologize to Councilmember Cowden for my error.</p> | |

| SUBJECT | DISCUSSION | ACTION |
|---------|---|--------|
| | <p>Ms. Cowden: Can I make one comment? Councilmember Cowden. I, my staff, they're the ones who withdrawn it. I had no idea it was withdrawn. I'm new at this, first time I've ever put something before the Ethics Commission and I would have hoped that there still could've been that, could've been on that piece. I didn't know it was withdrawn and when I saw it on this time, because I'm being threatened by somebody very real who's denying it, I thought he's probably going to come in here and in fact he did. So...</p> <p>Ms. Sasaki: This is a public meeting.</p> <p>Ms. Cowden: Pardon me?</p> <p>Ms. Sasaki: This is a public meeting.</p> <p>Ms. Cowden: I know, I know it is. I was wondering if that's why it had come on again, I thought that maybe he had stimulated it. So thank you for (inaudible). But I hadn't taken it off, and I tried so hard to do everything correct, and I went to the State Department, everybody that ..., Campaign Spending Commission and, um... so I wasn't trying to pull a fast one.</p> <p>Chair Toyofuku: Thank you.</p> <p>Chair Toyofuku asked for Counsel advisement. Ms. Sasaki suggested they go into Executive Session.</p> | |

| SUBJECT | DISCUSSION | ACTION |
|-------------------------------|---|---|
| | | |
| Executive Session | Chair Toyofuku entertained a motion to enter into Executive Session pursuant to HRS 92-4 and 92-5(a)(2) and (4) to consult with Counsel. | Ms. Tudela moved to go into executive session. Mr. de la Pena seconded. Motion carried 6:0. |
| Return to Open Session | | The Board resumed in Open Session at 1:51 pm |
| Communication | <p><u>BOE 2019-18 Possible conflict of interest dated May 9, 2019, from Felicia Cowden relating to Agenda Item C 2019-102, relating to a donation from the Russian Center New York for travel related expenses.</u></p> <p>Chair Toyofuku entertained a motion to receive.</p> <p><u>BOE 2019-19 Possible conflict of interest dated June 19, 2019 from Ross Kagawa relating to resolution no 2019-39, resolution confirming mayoral appointment to the Charter Review Commission (Reid R. Kawane).</u></p> <p><u>BOE 2019-20 Letter from Charter Review Commission inviting Board of Ethics to present any proposals to amend the Charter.</u></p> | <p>Ms. Burriss moved to receive BOE 2019-18. Ms. Tudela seconded. Motion carried 6:0.</p> <p>Ms. Burriss moved to receive BOE 2019-19. Mr. de la Pena seconded. Motion carried 6:0.</p> <p>Ms. Tudela moved to receive BOE 2019-20. Mr. de la Pena seconded. Motion carried 6:0</p> |

| SUBJECT | DISCUSSION | ACTION |
|------------------------|---|--|
| <p>Business</p> | <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 for non-compliance. Memorandum to Board of Ethics.</u> Ms. Ching reminded Members this was discussed at last month's meeting and members were to review materials given by Deputy County Attorney Maryann Sasaki.</p> <p>Ms. Sasaki suggested deferring to next month's meeting.</p> <p>Ms. Shiraishi reminded the Board that at their December 2018 meeting they received a table from their then Deputy County Attorney Nicholas Courson that they approved the fine schedule. It differs from what was proposed from Ms. Sasaki.</p> <p>Board requested a copy of the table from the December 7, 2018 meeting for the August meeting.</p> <p><u>BOE 2019-08 Review Advisory Opinions RAO 13-006 and RAO 18-004.</u></p> <p>Ms. Ching stated that Board had moved on this item and how to move forward regarding publication and process. Recommended defer.</p> <p><u>BOE 2019-17 Discussion and decision-making on Board Members to attend Hawaii</u></p> | <p>Ms. Shiraishi moved to defer BOE 2018-17 to the August 23, 2019 meeting. Mr. de la Pena seconded. Motion passed 6:0.</p> <p>Mr. de la Pena moved to defer BOE 2019-08 to the August 23, 2019 meeting. Ms. Tudela seconded. Motion passed 6:0.</p> |

| SUBJECT | DISCUSSION | ACTION |
|-------------------------------|--|--|
| | <p><u>Ethics Conference on September 5, 2019 in Honolulu, HI.</u></p> <p>Board discussed attending conference and who should attend.</p> <p><u>BOE 2019-22 Discussion on Board putting out a notice to County employees regarding ethics requirements for former employees.</u></p> <p>Discussed that there are new employees to County and new administration and wanting to inform people of the requirement. Staff will prepare with Deputy County Attorney to review.</p> | <p>Ms. Tabura moved that Chair Toyofuku, Vice Chair Shiraishi and Deputy County Attorney Sasaki attend the Hawaii Ethics Conference on Oahu to represent the Board. Mr. de la Pena seconded. Motion carried 6:0.</p> <p>Ms. Tudela moved to have staff proceed with a notice as discussed. Mr. de la Pena seconded. Motion carried 6:0.</p> |
| Disclosures | <p><u>Volunteers</u></p> <p>1. Ricky Watanabe – Civil Service Commission</p> | <p>Ms. Tabura moved to accept #1 disclosure as complete. Ms. Burriss seconded. Motion carried 6:0.</p> |
| Executive Session | <p>Chair Toyofuku entertained a motion to enter into Executive Session pursuant to HRS 92-4 and 92-5(a)(2) and (4) to consult with Counsel.</p> | <p>Ms. Tudela moved to go into Executive Session. Mr. de la Pena seconded. Motion carried 6:0</p> |
| Return to Open Session | | <p>The Board resumed in Open Session at 2:52 pm</p> <p>Ms. Burriss moved to ratify</p> |

| SUBJECT | DISCUSSION | ACTION |
|----------------------|---|---|
| | | decisions made in Executive Session. Ms. Tudela seconded. Motion carried 6:0. |
| Announcements | <p>Next Meeting: Friday, August 23, 2019 – 1:00 p.m., Mo‘ikeha Building, Liquor Conference Room 3</p> <p>Ms. Tudela noted that she will not be attending the August and September meetings as she will be on the mainland, she will return for the October meeting.</p> | |
| Adjournment | | Mr. de la Pena moved to adjourn the meeting, Ms. Tabura seconded. Chair Toyofuku adjourned the meeting at 2:53 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

July 10, 2019

RECEIVED

JUL 15 2019

Dean Toyofuku, Chair
and Members of the Board of Ethics
c/o Office of Boards & Commissions
4444 Rice Street, Suite 150
Lihu'e, Hawai'i 96766

BOARDS & COMMISSIONS

Dear Chair Toyofuku and Members of the Board of Ethics:

**RE: POSSIBLE CONFLICT OF INTEREST & REQUEST FOR
ADVISORY OPINION RELATING TO BILL NO. 2752, A BILL
FOR AN ORDINANCE AMENDING ZONING DESIGNATION IN
PUHI, KAUA'I (ISLAND SCHOOL, APPLICANT) (ZA-2019-2)**

I am writing to request that the Board of Ethics provide me with an advisory opinion regarding my participation in County Council proceedings and voting on a Zoning Amendment for the Puhi area, specifically for Island School.

My son has been attending Island School for the last three (3) years, and does not receive any form of financial aid from the school, please advise me if there is a conflict of interest in my participation in this zoning amendment which will be posted on the Council's July 17, 2019 Council Meeting Agenda for second and final reading.

Should you have any questions, please feel free to contact me at the Office of the County Clerk, Council Services Division, at 241-4188.

Sincerely,

MASON K. CHOCK
Councilmember, Kaua'i County Council

CT:lc
cc: Ellen Ching, Boards & Commissions Administrator ✓

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

July 15, 2019

RECEIVED

Dean Toyofuku, Chair
and Members of the Boards of Ethics
c/o Office of Boards & Commissions
4444 Rice Street, Suite 150
Lihu'e, Hawai'i 96766

JUL 16 2019

BOARDS & COMMISSIONS

Dear Chair Toyofuku and Members of the Board of Ethics:

**RE: POSSIBLE CONFICT OF INTEREST & REQUEST FOR
ADVISORY OPINION ON MY PARTICIPATION ON THE
TECHNICAL ADVISORY COMMITTEE FOR THE LIHU'E
AIRPORT MASTER PLAN**

As the Chairperson of the Kaua'i County Council, I have been invited to participate on the Technical Advisory Committee for the Lihu'e Airport Masterplan.

Please find the enclosed invitation that I received from the State Department of Transportation which includes information on the duties of the Technical Advisory Committee.

Should you have any questions, please feel free to contact me at the Office of the County Clerk, Council Services Division at 241-4188. Thank you for your consideration of my request.

Sincerely,

ARRYL KANESHIRO
Council Chair, Kaua'i County Council

JFT:lc
Enclosure

Bernard P. Carvalho Jr.
Mayor



Nicholas R. Courson
Boards and Commissions Administrator

Wallace G. Rezentes Jr.
Managing Director

**OFFICE OF THE MAYOR
BOARDS AND COMMISSIONS**

County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite 150, Līhu'e, Hawai'i 96766
TEL (808) 241-4917 FAX (808) 241-5127

November 21, 2018

Aloha Members of the Board of Ethics,

At your October 19th meeting, there was a request for an 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. The options are as follows, including our recommendation:

In regards to the timing requirement for disclosure, we believe the only option would be a Charter amendment as the timing for disclosures is a requirement of both the Charter (Section 20.04(A)) and the Kaua'i County Code (Title II, Chapter 3, Article 1, Section 3-1.9). There are three ways a Charter amendment can be initiated: (1) the Charter Review Commission (Section 24.03), (2) the County Council (Section 24.01(A)), or (3) by a petition presented to the County Council (Section 24.01(B)). The preferable option would be via the Charter Review Commission as the Board of Ethics and the Charter Review Commission are both supported by the Office of Boards and Commissions. If approved, the proposed Charter amendment would appear on the 2020 ballot.

In regards to a fine schedule, we believe there are three options (in no particular order) to implement a fine schedule: (1) a Charter amendment, (2) a County Code change, or (3) Administrative Rules. The County Code change is the preferable option because, pursuant to Section 20.04(D), "The council shall, *by ordinance*, adopt and may, from time to time, revise and amend such complementary provisions as may be necessary to supplement the code of ethics," which seems stronger than using the administrative rule process. Additionally, the other jurisdictions, with the exception of Maui, have their fine schedules in their respective Codes. However, the Administrative Rules are a possibility. The Charter amendment route would be the least favorable because, as mentioned previously, it would not appear on the ballot until 2020.

Attached is a table with the breakdown of the other jurisdictions' fines, along with our suggestion for your consideration.

Mahalo,

A handwritten signature in blue ink, appearing to read 'N. Courson', with a long horizontal flourish extending to the right.

Nicholas R. Courson
Administrator of the Office of Boards and Commissions

NRC:da

B&C SUGGESTION

| | HI State Ethics Commission HRS 84-17(i) | Maui Board of Ethics Board Rules §04-101-49.1 | Hawai'i County Board of Ethics HCC Section 2-91.1(f) | C&C of Honolulu Ethics Commission ROH Section 3-8.4(f) | Kaua'i Board of Ethics |
|--------|--|---|---|---|--|
| Step 1 | Administrative fine of \$75 | Administrative fine of \$50 | Guilty of a misdemeanor and subject to a fine of \$1,000 and imprisonment of one year | Send notification of violation of provision, stating the officer/employee has 10 days from receipt of notice to file or be subject to penalties | Administrative fine of \$50 |
| Step 2 | Send notification (in-person, electronic mail to state electronic mail address, or first class mail) of the failure to file, and disclosure shall be submitted to the commission not later than 4:30 p.m. on the tenth day after notification sent | Send notification via registered mail return receipt requested of the failure to file, and disclosure shall be submitted to the board not later than 4:30 p.m. on the tenth day after notification sent | | Civil fines as follows: \$100 for the first late filing; \$200 for the second late filing; and thereafter, for each additional late filing, the fine imposed for the previous late filing plus \$200 **any penalty/fine shall be imposed after an opportunity for a hearing conducted by the ethics commission under HRS Chapter 91 | Send notification (in-person, electronic mail to state electronic mail address, or first class mail) of the failure to file, and disclosure shall be submitted to the commission not later than 4:30 p.m. on the tenth day after notification sent |
| Step 3 | Failure to file within 10 days, an additional fine of \$10 per day for each day a disclosure remains unfiled | Failure to file within 10 days, an additional fine of \$10 per day for each day a disclosure remains unfiled, up to an aggregate of \$1,000 | | Failure to file within 30 days from receipt of notice shall, in addition to any civil fines imposed above, be subject to a criminal penalty of a fine not more than \$2,000 or of imprisonment for not more than one year, or of both such fine and imprisonment | Failure to file within 10 days, an additional fine of \$10 per day for each day a disclosure remains unfiled |