

Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved as circulated 11/15/19

Board/Commission:	BOARD OF ETHICS	Meeting Date	October 18, 2019
Location	Mo'ikeha Building, Liquor Conference Room 3	Start of Meeting: 1:00 p.m.	End of Meeting: 1:41 p.m.
Present	Chair Dean Toyofuku, Secretary Susan Burriss. Members: Ryan de la Pena, Mary Tudela Also: Deputy County Attorney Todd Jenson. 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 1:00 p.m. with four members present which constituted a quorum.
Approval of Minutes	<u>Open Session Minutes of September 20, 2019</u>	Mr. de la Pena moved to approve the minutes of September 20, 2019 as circulated. Ms. Tudela seconded. Motion carried 4:0.
Communication	<u>BOE 2019-27 Letter from Elizabeth Ann Ishii of Char Sakamoto Ishii Lum & Ching, Attorneys at Law, dated January 9, 2019 to Mayor Kawakami and received September 27, 2019 by the Board of Ethics regarding Executive Order to Setting Aside State of Hawaii Properties bearing Tax Map Keys (4) 4-5-008:008 and 009 (the "State Properties"), which are owned by the Department of Land and Natural Resources (the "DLNR") for Community Needs and Social Services Related Purposes.</u> <u>BOE 2019-28 Letter from Elizabeth Ann Ishii of Char Sakamoto Ishii Lum & Ching, Attorneys at Law, dated September 25, 2019 to Mayor Kawakami regarding New Hope Kauai's proposed use of 1326 Inia Street, Kapaa, Kauai (TMK(4)4-5-008:008 and 009 (the "State Properties") which are subject to Executive Order 4566.</u>	Mr. de la Pena moved to receive BOE 2019-27. Ms. Burriss seconded. Motion carried 4:0 Ms. Burriss moved to receive BOE 2019-28. Ms. Tudela seconded. Motion carried 4:0

SUBJECT	DISCUSSION	ACTION
<p>Request for Advisory Opinion</p>	<p>None</p>	
<p>Business</p>	<p><u>BOE 2018-17 Discussion and possible action by the Board of Ethics to provide explicit recommendation(s) on how to improve the existing countywide disclosure requirement and to discuss and propose a fine schedule for non-compliance. Review and discuss HRS section 46-1.5(24), County of Honolulu Chapter 6 Ethics Board Sec. 3-8.5, Chapter 14 Ethics Board of Appeals.</u></p> <p>Chair Toyofuku explained that at the State Ethics Conference it was brought to attention by the Staff Attorney for City & County of Honolulu that in order for the County to have the fine schedule they needed to comply with HRS section 46-1.5(24) that to have a fine schedule to implement you also need a Board of Appeals. So if they move forward and issued a fine are they in violation of HRS.</p> <p>Ms. Ching stated that you have to have due process.</p> <p>Todd Jenson, Deputy County Attorney, explained that this can be done and that there is a process. Administrative Rules need to be created for the different processes and there is a process to creating a Board of Appeals.</p> <p>Ms. Ching asked if it could be referred to contested cases.</p> <p>Mr. Jenson said that it could be heard by a Hearing's Officer as well.</p> <p>Ms. Ching said there is a Zoning Board of Appeals, but not a Board of Appeals. Boards and Commissions does have a Hearings Officer contract so if someone wanted to appeal and the Board wanted to refer to the Hearings Officer that process is set up.</p> <p>Mr. Jenson stated that would be the easiest, but would still need to have some rules. The process to promulgate Administrative Rules takes a few months cause you have to go through a public notice process where the public can comment on it. Come up with proposed rules that are released to the public so that they can comment, then you can</p>	

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	<p>consider public comments then move forward to adopt the rules.</p> <p>Chair Toyofuku asked if the proposed fine schedule would need to go as a Charter Amendment or an Ordinance?</p> <p>Mr. Jenson stated he believes it would be an Ordinance. And that both could be worked on at the same time.</p> <p>Board reviewed the Charter.</p> <p>Mr. Jenson explained the process, Board could work and come up with proposed fine schedule, than Office of County Attorney would work with Board to submit to Council to create a bill to create an ordinance. He will review memo from Maryann Sasaki to Board regarding fine schedule and acknowledged request from Board for a packet of information regarding proposed fine schedule to move forward.</p>	<p>Mr. de la Pena moved to defer BOE 2018-17 pending updates from Counsel. Ms. Tudela seconded. Motion carried 4:0</p>
	<p><u>BOE 2019-22 Discussion and possible action by the Board to provide notice to County employees regarding ethics requirements for former employees.</u></p> <p>Ms. Ching requested a deferral.</p>	<p>Ms. Burriss moved to defer BOE 2019-22. Mr. de la Pena seconded. Motion carried 4:0</p>
<p>Disclosures</p>	<p><u>Employee/Elected Official/Officer</u></p> <ol style="list-style-type: none"> 1. Adam Roversi, Housing Director <p><u>Volunteer</u></p> <ol style="list-style-type: none"> 2. Katherine Otsuji, Board of Review 4. Mia Shiraishi, Board of Ethics 	<p>Ms. Tudela moved to accept Disclosures 1 and 4. Ms. Burriss seconded. Motion carried 4:0</p> <p>Ms. Tudela moved to return Disclosure 2 for incompleteness of Section III, no source of income. Mr. de la Pena seconded. Motion carried 4:0</p>

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Executive Session	<p>Chair Toyofuku entertained a motion to enter into Executive Session pursuant to HRS §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.</p> <p>The Board moved into Executive Session at 1:26pm.</p>	<p>Mr. de la Pena moved to go into executive session. Ms. Tudela seconded. Motion carried 4:0.</p>
Return to Open Session	<p>Ratify Board actions taken in Executive Session.</p>	<p>The Board resumed in Open Session at 1:41 pm</p> <p>Mr. de la Pena moved to ratify decisions made in Executive Session. Ms. Burriss seconded. Motion carried 4:0</p>
Announcements	<p>Next Meeting: Friday, November 15, 2019 – 1:00 p.m., Mo'ikeha Building, Liquor Conference Room 3.</p>	
Adjournment		<p>Ms. Tudela moved to adjourn the meeting, Mr. de la Pena seconded. Chair Toyofuku adjourned the meeting at 1:41 p.m.</p>

Submitted by: _____
 Anela Segreti, Administrative Specialist

Reviewed and Approved by: _____
 Dean Toyofuku, Chair

(X) Approved as circulated.
 () Approved with amendments. See minutes of _____ meeting.