

Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved as circulated 04/17/2020

Board/Commission:	BOARD OF ETHICS	Meeting Date	February 21, 2020	
Location	Mo'ikeha Building, Liquor Conference Room 3	Start of Meeting: 1:00 p.m.	End of Meeting: 4:10 p.m.	
Present	Chair Mia Shiraishi, Vice Chair Susan Burriss, Secretary Mary Tudela. Members: Ryan de la Pena, John Latkiewicz, Maureen Tabura, Dean Toyofuku. Also: Deputy County Attorneys Todd Jenson, Charles Foster. Boards & Commissions Office Staff: Administrator Ellen Ching and Administrative Specialist Anela Segreti, Malialani Marrotte Clerical Assistant. Testifier: Ken Taylor			
Excused				
Absent				
SUBJECT	DISCUSSION		ACTION	
	Prior to the start of the meeting, Eddie Topenio gave the Oath of Office to new Board Member John Latkiewicz.			
Call To Order			Chair Shiraishi called the meeting to order at 1:00 p.m. with seven members present, which constituted a quorum.	
Approval of Minutes	<u>Open Session Minutes of January 17, 2020</u> Ms. Burriss corrected typos to add second "s" to Burriss throughout the minutes.		Mr. de la Pena moved to approve the minutes of January 17, 2020 as amended. Mr. Toyofuku seconded. Motion carried 7:0.	

<p>Communication</p>	<p><u>BOE 2020-03 Letter from County Clerk, Jade Fountain-Tanigawa, dated January 31, 2020 regarding the 2019 County of Kaua'i Lobbyist Registration.</u></p> <p>Chair Shiraishi asked if there was any testimony on this item.</p> <p>Ken Taylor, testifier, approached but did not give testimony on this item.</p> <p>Ms. Tudela asked why David Arakawa is allowed to continue as a Lobbyist when he has not submitted his 2018 Lobbyist Contributions & Expenditures Statement and does the Board have any jurisdiction.</p> <p>Ellen Ching, Administrator of Boards & Commissions, responded that she passed out the portion of the ordinance on penalties and administrative fines (on file) and paraphrased #3 saying that the Board of Ethics may impose a fine not to exceed \$1,000 for each violation of the lobbyist registration, and they may also suspend or revoke the registration of a lobbyist who is found to have violated any provision of the article and that the suspension or revocation shall not exceed two years from the date of the imposition of said sanction. She then directed them to b, no fine, suspension or revocation shall be assessed unless the Board of Ethics convenes a hearing in accordance with Section 3-6.8(b)(3) and Chapter 91. She continued to explain that her understanding is that the lobbyist must register if they are no longer lobbying. She does not know what the status of this individual is.</p> <p>Ms. Tudela suggested that the Board follow up, through the Administrator's office, with Mr. Arakawa and the Office of the County Clerk.</p> <p>Todd Jenson, Deputy County Attorney, suggested that they discuss it more in executive session since the question was raised and he can provide consultation.</p>	<p>Mr. de la Pena moved to receive BOE 2020-03. Mr. Toyofuku seconded. Motion carried 6:0</p>
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SUBJECT	DISCUSSION	ACTION
	<p><u>BOE 2020-04 Letter from County Attorney, Matthew Bracken, dated February 6, 2020 regarding request for a response to Ken Taylor's Communication dated January 17, 2020.</u></p> <p>Ken Taylor testified that the issue he inquired about had not been addressed by the letter from the County Attorney. He stated that the first issue that must be addressed is what if any interest does Mayor Kawakami have in the properties that were up zoned by Bill No. 2745 He stated that that question was not answered, and that the letter from County Attorney Bracken said that the Mayor does not have a direct interest, and he believed that this was a legal conclusion that only the Board of Ethics or the Court could make after they have reviewed the exact nature of the Mayor's interest. He continued to state that the Mayor is obligated to disclose to the Board and the public any interest direct or indirect that he may have. He gave an example of does the Mayor own shares in or is he an officer of a corporation that owns property that is enhanced by Bill No. 2745? He feels that a clear answer should come from the Mayor to this and other similar questions, and only then, can there be a determination of conflict. He went on to state that he is also concerned that there is an issue of whether the County Attorney can represent Mayor Kawakami in a personal capacity since he thinks, but he is not sure, that the matter is personal. He hopes that the Board will continue asking the questions and ask the Mayor directly does he or does he not own or own interest in any of the properties affected by Bill 2745 and then they can make a decision on whether there is a conflict.</p> <p>Chair Shiraishi entertained a motion to receive communication BOE 2020-04.</p>	<p>Ms. Burriss moved to receive BOE 2020-04. Ms. Tudela seconded. Motion carried 7:0</p>
<p>Request for an Advisory Opinion</p>	<p>None</p>	

SUBJECT	DISCUSSION	ACTION
<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 Shiraishi shared some background on this item. She explained that there is a requirement to have disclosure statements completed by County employees and members of boards and commissions to complete but no explicit fine schedule for failure to complete and submit them timely. So the Board is working on a fine schedule.</p> <p>Todd Jenson, Deputy County Attorney, explained that there are materials on rule making in the executive session packet, and will discuss during the executive session.</p>	<p>Mr. de la Pena moved to defer BOE 2018-17. Ms. Tabura seconded. Motion carried 7:0</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>Ellen Ching, Administrator, requested a motion to defer.</p>	<p>Ms. Tudela moved to defer BOE 2019-22. Mr. de la Pena seconded. Motion carried 7:0</p>
	<p><u>BOE 2019-33 Discussion and possible action by the Board of Ethics to provide ethics training for County employees.</u></p> <p>Ms. Ching requested a motion to defer.</p>	<p>Mr. de la Pena moved to defer BOE 2019-33. Ms. Tudela seconded. Motion carried 7:0</p>
	<p><u>BOE 2019-29 Update on presentation to the Charter Review Commission meeting on the proposed language to Amend Charter Section 20.04 A. Disclosure.</u></p> <p>Chair Shiraishi shared that she and Mr. Toyofuku attended the Charter Review Commission meeting and in the end they did approve the proposed amendment subject to a correction. The Charter Review Commission made a change in the phrase, “Heads and Deputies” by putting it in front of “all departments”. She further shared that they did have questions regarding regulatory employees, but is willing to consider putting this</p>	<p>No action.</p>

SUBJECT	DISCUSSION	ACTION
	<p>amendment on the ballot, and if it should pass then the Board would later do an ordinance explaining a regulatory employee.</p> <p>Ms. Ching clarified the process for the Charter Review Commission. She explained that the Commission has referred this proposal to the County Attorney’s Office and when they get all of the proposals back they will be looking at each one and ultimately decide which will be put on the ballot.</p>	
	<p><u>BOE 2019-31 Update on presentation to the Charter Review Commission meeting on the proposed language to amend Charter 20.05.D.2.</u></p> <p>Chair Shiraishi shared that in the same Charter Review Commission meeting, this proposal was discussed and in the end, they said okay, and it will go through the same process. They did not change any of the wording, however she sensed that they were not feeling this one as much as the other. She stated that Nick Courson, First Deputy County Attorney, said that something like this had come up before years ago, and that it did not pass. She is not sure if it was exactly the same or similar.</p> <p>Ms. Ching shared that her understanding is that the previous ballot question was to extend it to 45 days from the 30 days. She stated that the Commission was concerned about due process and not having people wait an extended period of time, but even with the concerns they decided to move it forward.</p> <p>Chair Shiraishi stated that she and Mr. Toyofuku did assure them that even though the 45-day deadline removed the Board would definitely get to every request for an advisory opinion. She hoped that allayed their concerns.</p> <p>Mr. Toyofuku added that they were more focused on the 45-day due process than the Boards concern that if they do not act it has deemed no conflict. He stated that they tried to emphasize the no conflict and that the Board will act within a reasonable manner if someone sends a communication saying urgent or that it is needed within a specific time-period, acknowledging that special meetings could be held.</p> <p>Ms. Shiraishi shared that the Commission asked if an opinion was deemed okay because of no action could the Board later revoke that opinion and issue a new one. In theory, they could. She then went on to share with new member, Mr. Latkiewicz, about the first</p>	<p>No action.</p>

SUBJECT	DISCUSSION	ACTION
	<p>State Ethics Conference that she and Mr. Toyofuku attended, and how the Board came to propose amendments to the Charter.</p>	
	<p><u>BOE 2020-02 Permitted Interaction Group recommendations on an ordinance to require annual gift disclosures.</u></p> <p>Mr. Toyofuku gave update on the meeting of the Permitted Interaction Group (PIG). He shared that they met with County Clerk Jade Tanigawa and asked her assistance in drafting the ordinance. They reviewed everything, other counties and state. They liked Hawaii Island's and came up with a \$25 value and anything over. He stated that Ms. Tanigawa shared her experience with other ordinances, and she will draft the ordinance and they will review at next PIG meeting.</p> <p>Ms. Shiraishi shared with Mr. Latkiewicz the background that at the State Conference they became aware that the other counties had an ordinance on gift disclosure requirement and Board is looking at establishing this through an ordinance for Kaua'i County.</p>	<p>No action.</p>
<p>Disclosures</p>	<p style="text-align: center;"><u>Employees:</u></p> <ol style="list-style-type: none"> 1. Teresa Tumbaga, Deputy County Attorney 2. Ernest Barreira, Assistant Chief Procurement Officer 3. Michelle Lizama, Deputy Director of Finance 4. Jenna Tatsey, Deputy County Attorney 5. Arthur Brun, Councilmember 6. Felicia Cowden, Councilmember 7. Todd Raybuck, Police Chief 8. Todd Jenson, Deputy County Attorney <p>Chair Shiraishi stated the #2-Ernest Barreira, #3-Michelle Lizama, and #7-Todd Raybuck did not disclose the source of the income disclosed. #5-Arthur Brun, listed an employer other than County employment as Ata's Smoked Meat, but did not disclose income for that employment, and if there is no income that needs to disclosed.</p>	<p>Mr. Toyofuku moved to receive and approve disclosures of Employees 1, 4, 6, 8. Mr. de la Pena seconded. Motion carried 7:0.</p> <p>Ms. Tabura moved to return disclosures to Employees 2, 3, 5, 7 for the reasons stated. Mr. de la Pena seconded. Motion carried 7:0</p>

SUBJECT	DISCUSSION	ACTION
	<p style="text-align: center;"><u>Volunteers:</u></p> <ol style="list-style-type: none"> 9. Elizabeth Hahn, Civil Service Commission 10. Jan TenBruggencate, Charter Review Commission 11. Lori Otsuka, Planning Commission 12. Patrick Ono, Salary Commission 13. Randall Nishimura, Liquor Control Commission 14. John Latkiewicz, Board of Ethics 15. Carolyn Larson, Kaua'i, Historic Preservation Commission 16. Melvin Chiba, Planning Commission <p>Chair Shiraishi stated that Volunteer #9-Elizabeth Hahn disclosed employment as Independent Consultant but did not describe what type of business it is and does not indicate the source of the consultant income. Board discussed that they would like to know what field she is consulting. Volunteer #10-Jan TenBruggencate, Volunteer #15-Carolyn Larson, and Volunteer #16-Melvin Chiba did not disclose company for stocks and bonds and interests on savings. Board discussed that a company needs to be listed, not each individual stock and bonds, i.e. the brokerage firm or financial institution would be acceptable.</p>	<p>Ms. Toyofuku moved to receive and approve disclosures of Volunteers 11, 12, 13. Ms. Tudela seconded. Motion carried 7:0</p> <p>Ms. Toyofuku moved to receive and approve disclosure of Volunteer 14. Ms. Tudela seconded. Mr. Latkiewicz recused himself. Motion carried 6:0</p> <p>Ms. Tudela moved to return for disclosures of Volunteers 9, 10, 15, 16 for the stated reasons. Mr. de la Pena seconded. Motion carried 7:0</p>
<p>Executive Session</p>	<p>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 consult with the Board's legal counsel on issues pertaining to Resolution 2019-1 to consider the evaluation, dismissal or discipline of an</p>	

SUBJECT	DISCUSSION	ACTION
	The Board moved into Executive Session at 2:15pm.	
Return to Open Session	Ratify Board actions taken in Executive Session.	The board resumed in Open Session at 4:10pm Ms. Tabura moved to ratify decisions made in Executive Session. Mr. de la Pena seconded. Motion carried 7:0
Announcements	Next Meeting: Friday, March 20, 2020 – 1:00 p.m., Mo‘ikeha Building, Liquor Conference Room 3.	
Adjournment		Ms. Tudela moved to adjourn the meeting, Mr. de la Pena seconded. Motion carried 7:0 Chair Shiraishi adjourned the meeting at 4:10pm

Submitted by: _____ Reviewed and Approved by: _____
 Anela Segreti, Administrative Specialist Mia Shiraishi, Chair

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