

Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved as amended 9/18/20

Board/Commission:	BOARD OF ETHICS	Meeting Date	Aug 10, 2020
Location	Teleconference	Start of Meeting: 1:00 p.m.	End of Meeting: 2:55 p.m.
Present	Chair Mia Shiraishi, Vice Chair Susan Burriss, Secretary Mary Tudela. Members: Kelly Gentry, John Latkiewicz, Dean Toyofuku. Also: Deputy County Attorney Charles Foster. Boards & Commissions Office Staff: Administrator Ellen Ching and Administrative Specialist Anela Segreti. Testifier: Ed Renaud		
Excused			
Absent			
SUBJECT	DISCUSSION	ACTION	
Call To Order	Prior to the start of the meeting the Board welcomed Kelly Gentry as their newest Board Member.	Chair Shiraishi called the meeting to order at 1:00 p.m. Roll call: Member Gentry: present Member Latkiewicz: present Member Toyofuku: present Secretary Tudela: present Vice Chair Burriss: present Chair Shiraishi: present Six members present, which constituted a quorum.	
Approval of Minutes	<u>Open Session Minutes of July 14, 2020</u> <u>Open Session Minutes of July 21, 2020</u> Chair Shiraishi entertained a motion to approve the minutes of July 14, 2020 and July 21, 2020 with no edits.	Member Latkiewicz moved to approve the minutes of July 14, 2020 and July 21, 2020. Vice Chair Burriss seconded. Chair Shiraishi approved the minutes as read with no corrections.	

SUBJECT	DISCUSSION	ACTION
Testimony	<u>None</u>	No action
Communication	<p><u>BOE 2020-24 Possible conflict of interest from Council Chair Arryl Kaneshiro dated July 31, 2020 relating to C 2020-196 relating to a donation of gift certificates from Grove Farm Foundation, valued at \$10,000.00 to help Kaua`i's Kūpuna in need of assistance.</u></p> <p>Chair Shiraishi entertained a motion to receive.</p>	<p>Vice Chair Burriss moved to receive BOE 2020-24. Member Toyofuku seconded.</p> <p>Voice Vote: 6 ayes, 0 nays Motion carried 6:0</p>
Request for an Advisory Opinion	<p><u>RAO 2020-01 Request for an Advisory Opinion from Edmond Renaud dated July 27, 2020 relating to a possible conflict of interest relating to his marriage to an inactivated licensed contractor and his positions as Chief of Field Operations and Maintenance.</u></p> <p>Chair Shiraishi acknowledged that the board received that request and position description and asked Mr. Renaud if he wanted to add anything else.</p> <p>Mr. Renaud replied that was it.</p> <p>Chair Shiraishi entertained a motion.</p> <p>Board moved into discussion.</p> <p>Secretary Tudela questioned where is the potential conflict.</p> <p>Mr. Renaud replied that when this happened at a meeting, it was suggested by his supervisor, Troy Tanigawa, that he submit a request for an advisory opinion. He clarified that there was no complaint against him. He later found out that his wife was the licensed contractor for a company that was doing work at the hotel and they needed a contractor license and she was helping out. He testified that he is aware that in his position he should not be involved in any of this and that he was not, but he wanted to inform the board of the situation.</p> <p>Secretary Tudela clarified that his wife no longer has an ABC license for General Engineering, Independent, and other.</p>	

Mr. Renaud clarified that his job is to review contracts after the engineer and project assistant has worked on them to make sure that everything is legal within the County. He also clarified that he approves within the division, than it is moved up and his is not the final approval. The contractor, D&K, used his wife's license so they could do work and the County's road division has contracts with them. He continued to clarify that he reviewed contracts by this contractor and they were the low bidder and everything was in line and allowed it to move forward for approval.

Secretary Tudela asked him to clarify being asked to write a request for an advisory opinion.

Mr. Renaud explained that when COVID-19 happened the local Contractors General Association of Hawaii was looking for contractors and they made a list available to the community of General Contractors and RMEs in case they needed assistance. His wife's name was on the list and that's how it came forward.

Vice Chair Burriss asked if his wife planned to reactivate her contractor's license.

Mr. Renaud replied that he does not believe she will, but has told her that if she does get involved in something she cannot get involved in anything with the County as long as he is working.

Chair Shiraishi asked Deputy County Attorney Charles Foster that they do not look at past behavior for a violation. They are only to advise on actions that have not yet happened.

Mr. Foster stated that request can be made to assist officers and employees in the proper performance of their official duties and responsibilities in accordance with the Code of Ethics.

It was clarified that Request for an Advisory Opinion is not to review actions that happened in the past, that would be a complaint.

Chair Shiraishi is satisfied that Mr. Renaud's wife's license is inactivated and they have been told that she has no plans to reactivate at this time. She would caution that if she does that he would contact the board with the issue.

Member Toyofuku asked if the company that she had her license with have any current

Vice Chair Burriss moved to find no conflict Member Toyofuku seconded.

Roll call vote:
Member Gentry: no conflict
Member Latkiewicz: no conflict
Member Toyofuku: no conflict
Secretary Tudela: aye
Vice Chair Burriss: aye, no conflict
Chair Shiraishi: aye, no conflict
Motion carried 6:0

	<p>contracts with the County.</p> <p>Mr. Renaud explained that she inactivated her license he believes on April 1. He doesn't know why, she said she retired already and she wasn't getting paid, she was just helping out and with the list that came out on the 20th with the Contractors Association she was already out. When he found out he checked all the accounts and there wasn't anything with him. The company is finishing a contract with the County, but cannot apply for anymore until they get a licensed contractor. He also clarified that she was not getting paid and not an employee. The company has 90 days to obtain a licensed contractor.</p> <p>Ellen Ching, Administrator, stated that she heard discussion that if circumstances should change he should come before the board. She asked if a clarifying statement should be included in the letter.</p> <p>Chair Shiraishi confirmed she would like a statement regarding that in the letter.</p> <p>Board discussed that they should not place any judgement on what happened in the past already, that would be a complaint and not what they were to do today.</p> <p>Ms. Ching asked for a motion from the board to work with the Chair to draft a letter with guidance on moving forward.</p> <p>Member Toyofuku agreed with Ms. Ching and that this is something they have experienced before and believes that inserting the conditions moving forward that in whatever way possible that should his wife ever reactivate her license again they would recommend that he come forward for an advisory opinion. Making decision is based on today and moving forward. He acknowledged that the company was awarded a contract prior to knowing the facts, and for example if a complaint came in they would look over all those facts. He remembered that she was the RME and any permits or contracts that went through his office would have needed to be signed by her. He clarified for this opinion it is moving forward and doesn't matter what happened before.</p> <p>Secretary Tudela stated that a question on this could come before the board and the decision they made today has no bearing on that.</p> <p>Vice Chair Burriss asked if they should reach out to the licensing bureau and perhaps they could put a cautionary message.</p>	<p>Secretary Tudela moved that the Board of Ethics allow administration to confer with the Chair about added comments on the response to this request. Vice Chair Burriss seconded.</p> <p>Voice vote: 6 ayes, 0 nays Motion carried 6:0</p>
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	<p>Secretary Tudela suggested that it should be made to the County.</p> <p>Ms. Ching clarified that the contractor’s license is a State body and she could give a call to them. She stated that this is limited to County employees, similar to the previous one and if you’re an employee and work for the department giving the license that becomes problematic.</p> <p>Member Toyofuku suggested a FYI memo from the Board of Ethics.</p> <p>Ms. Ching offered to discuss this with HR and the Board agreed.</p>	
<p>Business</p>	<p><u>BOE 2020-20 Discussion and possible action on returning to conducting Board of Ethics meetings on the third Friday of the Month beginning September 18, 2020.</u></p> <p>Sue thanked the Board for being flexible as she preferred Fridays.</p>	<p>Secretary Tudela moved to return the Board of Ethics meeting to the third Friday of every month beginning September 18, 2020. Vice Chair Burriss seconded.</p> <p>Voice vote: 6 ayes, 0 nays Motion carried 6:0</p>
<p>Disclosures</p>	<p><u>Candidates:</u></p> <ol style="list-style-type: none"> 1. Justin Kollar, Candidate for Prosecuting Attorney 2. Addison Bulosan, Candidate for County Council 3. Victoria Franks, Candidate for County Council 4. Debralynn Carveiro, Candidate for County Council 5. Shirley Simbre-Medeiros, Candidate for County Council 6. Michael Dandurand, Candidate for County Council 7. Donovan Cabebe, Candidate for County Council 8. Clint Yago, Candidate for County Council 	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Shiraishi asked how it works now that the primary is done and some of the candidates are out.</p> <p>Ms. Ching believes they are still obligated to file disclosures regardless of the results. She asked for follow-up as to whether all the candidates filed.</p> <p>Anela Segreti, Administrative Specialist, confirmed that not all candidates filed, none of the Council incumbents filed.</p> <p>Discussion that incumbents are assuming since they already have one on file that they do not need to submit one as a candidate.</p> <p>Mr. Foster confirmed that they clearly have to file the disclosure, the question regarding once it becomes mute, does the body still need to act on them. He suggested that since they have filed they should act on them.</p> <p>Ms. Segreti stated that she did inquire with Council Services as to whether the incumbents needed to file and was told yes. Justin Kollar filed as a candidate.</p> <p>Vice Chair Burriss stated that #3, Victoria Franks, #4, and #7 used acronyms in section IV and should be returned for more information. Also #8, Clint Yago, there are blanks on sections VI, VIII, and IX.</p> <p>Ms. Segreti confirmed that for #8, Clint Yago, the incorrect form was sent to members to review. The correct form was uploaded for the board to review and he completed blank sections with an N/A.</p> <p>Members discussed the acronyms used by candidates #3, #4, and #7, to be clear to describe the acronyms so they can be clear as to a conflict. Discussion continued to whether the Board should pursue the disclosures for candidates that will not be moving forward.</p> <p>Mr. Foster clarified that the board can decide how to handle the disclosures of those candidates not moving forward. He stated that while there is a legal requirement to look at them, there's no legal requirement that you send them back to anyone, there's no legal requirement that you follow up on every one. The board can decide among themselves how to proceed.</p>	

	<p>Ms. Ching suggested that the board may want to not approve as moot and that also not all information was submitted as requested for future reference.</p> <p>Board continued to discuss what acronyms versus name of company and initials and how they will know what the company does and whether there is a potential conflict. That will be placed on the agenda for another meeting and discussion.</p>	<p>Member Latkiewicz moved to approve disclosures 1, 2, 5, 6, & 8. Vice Chair Burriss seconded.</p> <p>Voice vote: 6 ayes, 0 nays Motion carried 6:0</p> <p>Vice Chair Burriss moved to approve 3, 4, 7 with a conditional statement going back to them. Secretary Tudela seconded.</p> <p>Voice vote: 6 ayes, 0 nays Motion carried 6:0</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 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; 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><u>ES-026 Executive Session Minutes of July 14, 2020</u> <u>Executive Session Minutes of July 21, 2020</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>ES-027: BOE 2020-24 Pursuant to Hawai'i Revised Statutes §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the Board to discuss and make decisions regarding the draft of a preliminary opinion regarding Complaint 20-001 under Rule 6.2 that an employee or officer of the County has breached the Code of Ethics as set forth in the Kaua'i County Charter section 20.02 E and F, the Kaua'i County Code 1987 as amended by June 2019 Code Supplement, Article 1, Section 3-1.4 and 3-1.6,</u></p> <p><u>No officer or employee of the county shall:</u></p> <ul style="list-style-type: none"> e. <u>Use the officer or employee's official position to secure a special benefit, privilege, or exemption for the officer or employee or others.</u> f. <u>Use county property for other than public activity or purpose.</u> <p><u>and other related matters where consideration of matters affecting privacy will be involved, and to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities as they may relate to this agenda item.</u></p> <p style="text-align: center;">The Board moved into Executive Session at 2:08 pm</p>	<p>Vice Chair Burriss moved to go into executive session. Secretary Tudela seconded.</p> <p>Voice vote 4 ayes, 0 nays. Motion carried 4:0</p>
<p>Return to Open Session</p>	<p>Ratify on Board actions taken in Executive Session.</p>	<p>The Board resumed in Open Session at 2:55 p.m.</p> <p>Vice Chair Burriss moved to ratify decisions made in Executive Session. Member Latkiewicz seconded. Voice vote 6 ayes, 0 nays. Motion carried 6:0</p>
<p>Announcements</p>	<p>Next Meeting: Friday, September 18, 2020 – 1:00 p.m., Teleconference</p>	

SUBJECT	DISCUSSION	ACTION
Adjournment		Without objection the meeting was adjourned at 2:55 p.m.

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

- () Approved as circulated.
- (X) Approved with amendments. See minutes of 9/18/20.