

Mia Shiraishi
Chair

Susan Burriss
Vice Chair

Mary Tudela
Secretary

Members:
John Latkiewicz
Dean Toyofuku

**COUNTY OF KAUA'I BOARD OF ETHICS
NOTICE OF TELECONFERENCE AND AGENDA**
Tuesday, May 19, 2020
1:00 p.m. or shortly thereafter

Microsoft Teams Audio: +1 469-848-0234, Conference ID: 904 689 910#

This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Open Session Minutes of April 17, 2020

TESTIMONY

COMMUNICATION

BOE 2020-14

Lobbyist statement from Allan Rietow dated 4/20/2020.

REQUEST FOR AN ADVISORY OPINION

None

BUSINESS

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.

DISCLOSURES

Employees:

1. Adam Roversi, Housing Director

Volunteers:

2. Laurie Yoshida, Salary Commission
3. Jan TenBruggencate, Charter Review Commission
4. Jonathan Lucas, Open Space Commission

An Equal Opportunity Employer

5. Francis DeGracia, Planning 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 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.

ES-018 Executive Session Minutes of April 17, 2020

ES-015: BOE 2020-09 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 20.05(B), the Office of the County Attorney, requests an Executive Session with the Board, to provide the Board with examples of code amendments providing for fines for failure to file disclosure statements. This briefing and consultation involves providing legal advice and discussion on the amendments and documents as they relate to this agenda item.

ES-017: BOE 2020-10 Communication received April 16, 2020 related to agenda item.

ES-019: BOE 2020-15 Discussion and possible action on Resolution 2019-1 for 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 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.

No officer or employee of the county shall:

- e. Use the officer or employee's official position to secure a special benefit, privilege, or exemption for the officer or employee or others.
- f. Use county property for other than public activity or purpose.

ES-020: BOE 2020-16 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) the Board requests an Executive Session with Special Counsel to discuss complaint process.

RETURN TO OPEN SESSION

Ratify on Board actions taken in Executive Session.

ANNOUNCEMENTS

Next Meeting: Tuesday, June 16, 2020 – 1:00 p.m., Teleconference

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: Office of the County Attorney

PUBLIC COMMENTS and TESTIMONY

SPEAKER REGISTRATION

Prior to the Day of the Meeting: Persons wishing to testify are requested to register their name, phone number, and agenda item via email at asegret@kauai.gov; or by calling 808-241-4917.

On the Day of the Meeting: Persons who have not registered to testify by the time the Commission meeting begins will be given the opportunity to speak on an item following oral testimonies of registered speakers.

Each speaker is limited to a three-minute presentation on each item.

WRITTEN TESTIMONY

Prior to the Day of the Meeting: Testimony may be emailed: asegreti@kauai.gov faxed: 808-241-5127, or mailed: County of Kauai, Office of Boards and Commissions, Board of Ethics, 4444 Rice St., Ste. 150, Lihue, HI 96766.

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.

Draft to be Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission:	BOARD OF ETHICS	Meeting Date	April 17, 2020
Location	Mo‘ikeha Building, Liquor Conference Room 3	Start of Meeting: 1:00 p.m.	End of Meeting: 3:52 p.m.
Present	Chair Mia Shiraishi, Vice Chair Susan Burriss, Secretary Mary Tudela. Members: John Latkiewicz, Dean Toyofuku. Also: Deputy County Attorneys Todd Jenson, Charles Foster. Boards & Commissions Office Staff: Administrator Ellen Ching and Administrative Specialist Anela Segreti.		
Excused			
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order	Ellen Ching, Administrator, went over the meeting rules (on file).	Chair Shiraishi called the meeting to order at 1:00 p.m. Roll call: Chair Shiraishi: present Vice Chair Burriss: present Secretary Tudela: present Mr. Toyofuku: present Mr. Latkiewicz: present Five members present, which constituted a quorum.
Approval of Minutes	<u>Open Session Minutes of February 21, 2020</u>	Mr. Latkiewicz moved to approve the minutes of February 21, 2020 as submitted. Mr. Toyofuku seconded. Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0

SUBJECT	DISCUSSION	ACTION
Communication	<u>BOE 2020-07 Written testimony from Ken Taylor dated February 2020 regarding 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>Ms. Tudela moved to receive BOE 2020-07 for the record. Mr. Toyofuku seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p>
	<u>BOE 2020-08 Email from Madison Perry dated 2/27/2020 regarding recommendation to remove Councilmember Brun.</u>	<p>Vice Chair Burriss moved to receive BOE 2020-08 for the record. Mr. Toyofuku seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p>
	<u>BOE 2020-11 Letter from Matthew Bracken, County Attorney, dated 3/12/2020 regarding Board of Ethics Impeachment Power.</u>	<p>Mr. Latkiewicz moved to receive BOE 2020-11 for the record. Ms. Tudela seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye</p>

SUBJECT	DISCUSSION	ACTION
		Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0
	<u>BOE 2020-13 Possible conflict of interest dated March 11, 2020 from Council Chair Arryl Kaneshiro regarding C 2020-73 relating to Grove Farm.</u>	Vice Chair Burriss moved to receive BOE 2020-13 for the record. Ms. Tudela seconded. Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0
Request for an Advisory Opinion	None	
Business	<u>BOE 2020-12 Discussion and possible action regarding issuing a statement regarding Councilmember Brun.</u> Ms. Ching read the draft statement into the record (on file), as well as an added statement from Secretary Tudela regarding the guide to ethical issues information (on file). Chair Shiraishi entertained a motion to approve. Vice Chair Burriss clarified that the motion is for the statement with amendment from Secretary Tudela. Ms. Ching asked Board to amend or withdraw motion to clarify the addendum is also approved. Chair Shiraishi clarified the issuing of the statement.	Mr. Latkiewicz moved to approve BOE 2020-12. Vice Chair Burriss seconded. Mr. Latkiewicz moved to amend the motion to approve BOE 2020-12 with the addendum by Secretary Tudela at the end. Vice Chair Burriss

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Ching suggested that it would be posted on the Board of Ethics webpage. She shared that she received other inquiries and will respond to those as well with the statement from the County Attorney (on file).</p>	<p>seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p>
	<p><u>BOE 2020-03 Discussion and possible action by the Board of Ethics regarding letter from County Clerk, Jade Fountain-Tanigawa, dated January 31, 2020 regarding the 2019 County of Kaua'i Lobbyist Registration.</u></p> <p>Ms. Ching read the letter received from County Clerk (on file) in response to Boards letter for clarification (on file) into the record. Letter updated the Board on filings. She pointed out that Mr. Arakawa is current and Mr. Rietow is delinquent.</p> <p>Chair called for a motion on how to move on this information.</p> <p>Ms. Ching asked Deputy County Attorney for consultation.</p> <p>Todd Jenson, Deputy County Attorney, suggested sending a letter to the individual regarding complying with filing or forwarding a termination.</p>	<p>Vice Chair Burriss moved to request Counsel to draft a letter for signature from the Chair on behalf of the Board of Ethics to Mr. Rietow. Secretary Tudela seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p>

SUBJECT	DISCUSSION	ACTION
	<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>Ms. Ching asked County Attorney’s if they wanted to defer this item.</p> <p>Mr. Jenson stated that they are prepared to discuss this item, but will defer at the Chair’s discretion.</p> <p>Chair Shiraishi stated that the agenda is full and deferral would be best.</p>	<p>Secretary Tudela moved to defer BOE 2018-17. Vice Chair Burriss seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p>
<p>Disclosures</p>	<p style="text-align: center;"><u>Employees:</u></p> <p>1. Ernest Barreira, Assistant Chief Procurement Officer Chair Shiraishi entertained a motion to approve. Hearing no discussion Chair Shiraishi called for the vote.</p> <p>2. Michelle Lizama, Deputy Director of Finance Chair Shiraishi entertained a motion to approve. Hearing no discussion Chair Shiraishi called for the vote.</p>	<p>Mr. Latkiewicz moved to approve the disclosure of Mr. Barreira. Secretary Tudela seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p> <p>Secretary Tudela moved to approve the disclosure of Ms. Lizama. Vice Chair Burriss seconded.</p>

SUBJECT	DISCUSSION	ACTION
	<p style="text-align: center;"><u>Volunteers:</u></p> <p>3. Jan TenBruggencate, Charter Review Commission Chair Shiraishi entertained a motion to approve. Hearing no discussion Chair Shiraishi called for the vote.</p> <p>4. Carolyn Larson, Kaua'i Historic Preservation Commission Chair Shiraishi entertained a motion to approve. Hearing no discussion Chair Shiraishi called for the vote.</p>	<p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p> <p>Vice Chair Burriss moved to approve the disclosure of Mr. TenBruggencate. Secretary Tudela seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p> <p>Secretary Tudela moved to approve the disclosure of Ms. Larson. Vice Chair Burriss seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye</p>

SUBJECT	DISCUSSION	ACTION
	<p>5. Melvin Chiba, Planning Commission Hearing no discussion Chair Shiraishi called for the vote.</p> <p>6. Laurie Yoshida, Salary Commission Chair Shiraishi entertained a motion to approve.</p> <p>Vice Chair Burriss asked what it means when it says home address exempt.</p> <p>Mr. Jenson responded that they are not sure what this individual meant. He stated that the only exemption he is aware of is if a person is a victim of domestic violence or crime, there is an address protection program. He went over the requirement in the Charter that owned property, including home's address must be disclosed as part of the disclosure. He suggested that the disclosure be sent back asking for clarification as to why their address should be exempt.</p> <p>Mr. Foster added that he checked case law, there is Nakano v. Matayoshi 68Hawaii148 that the State Supreme Court has weighed in on this and find it legal to disclose address.</p>	<p>Mr. Latkiewicz: aye Motion carried 5:0</p> <p>Secretary Tudela moved to approve the disclosure of Mr. Chiba. Vice Chair Burriss seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p> <p>Mr. Toyofuku moved to approve the disclosure of Ms. Yoshida. Mr. Latkiewicz seconded.</p>

SUBJECT	DISCUSSION	ACTION
	<p>Secretary Tudela shared that it is important to go back and ask for a clarification. She feels they need to vote no to approve.</p> <p>Ms. Ching stated that the motion could be withdrawn.</p> <p>Chair Shiraishi entertained another motion.</p> <p>7. Gregory Kamm, Board of Water Supply Chair Shiraishi entertained a motion to approve.</p> <p>Vice Chair Burriss questioned if some of the information seems to be dropped off the forms.</p> <p>Anela Segreti, Administrative Specialist, responded that the form did drop off some of his responses and he addressed them by email which was read into the record (on file).</p> <p>Vice Chair Burriss was satisfied with the information.</p>	<p>Mr. Toyofuku withdrew his motion to approve the disclosure of Ms. Yoshida. Mr. Latkiewicz withdrew his seconded.</p> <p>Secretary Tudela moved to return the disclosure of Ms. Yoshida for clarification on exempt home address. Vice Chair Burriss seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p> <p>Mr. Latkiewicz moved to approve the disclosure of Mr. Kamm. Mr. Toyofuku seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p>

SUBJECT	DISCUSSION	ACTION
	<p><i>Board recessed at 1:44pm and resumed at 1:57pm</i></p>	<p>Roll call: Chair Shiraiishi: present Vice Chair Burriss: present Secretary Tudela: present Mr. Toyofuku: present Mr. Latkiewicz: present Five members present. Deputy County Attorney, Todd Jenson-present Deputy County Attorney, Charles Foster-present</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>ES-014 Executive Session Minutes of February 21, 2020</p> <p>ES-016: BOE 2020-12 Pursuant to Hawai‘i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) the Board requests an Executive Session with the Office of the County Attorney to consider questions and issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities as it relates to Councilmember Arthur Brun.</p> <p>ES-015: BOE 2020-09 Pursuant to Hawai‘i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua‘i County Charter Section 20.05(B), the Office of the County Attorney, requests an Executive Session with the Board, to provide the Board with examples of code amendments providing for fines for failure to file disclosure statements. This briefing and consultation involves providing legal advice and discussion on the amendments and documents as they relate to this agenda item.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>ES-017: BOE 2020-10 Report, discussion and possible action on Resolution 2019-1 for 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 section 20.02 A and E, the Kaua'i County Code 1987, as amended by June 2019 Code Supplement, Article 1, Section 3-1.4 and 3-1.6.</p> <p>No officer or employee of the county shall:</p> <p>a. Solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the officer or employee in the performance of the officer or employee's official duties or is intended as a reward for any official action on the officer or employee's part.</p> <p>b. Use county property for other than public activity or purpose. The Chair entertained a motion to move into Executive Session.</p> <p style="text-align: center;">The Board moved into Executive Session at 2:03pm.</p>	<p>Vice Chair Burriss moved to go into executive session. Secretary Tudela seconded.</p> <p>Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0</p>
<p>Return to Open Session</p>		<p>The board resumed in Open Session at 3:49pm</p> <p>Roll call: Chair Shiraishi: present Vice Chair Burriss: present Secretary Tudela: present Mr. Toyofuku: present Mr. Latkiewicz: present Five members present.</p>

SUBJECT	DISCUSSION	ACTION
	Ratify Board actions taken in Executive Session.	Secretary Tudela moved to ratify decisions made in Executive Session. Mr. Latkiewicz seconded. Roll call vote: Chair Shiraishi: aye Vice Chair Burriss: aye Secretary Tudela: aye Mr. Toyofuku: aye Mr. Latkiewicz: aye Motion carried 5:0
Announcements	Next Meeting: Friday, May 2020 – 1:00 p.m., Location TBD Vice Chair Burriss asked about next meeting date. Ms. Ching stated that the Board will be notified of the date. Vice Chair Burriss raised the question regarding receiving communication on ES-017: BOE 2020-10. Board will receive for the record at the May meeting.	
Adjournment		Without objections Chair Shiraishi adjourned the meeting at 3:52pm

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

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

Contributions and Expenditures Statement

For January 1 through December 31, 2019

For Allan S. Rietow

This statement contains the following information:

(1) The name and address of any person receiving lobbying expenditures in the total sum of twenty-five dollars (\$25) or more per day from the person filing the statement, the amount and date of expenditure, and a general description of all such expenditures - **EXPENDITURES = \$0**

(2) The name and address of any person receiving lobbying expenditures in the aggregate amount of one hundred fifty dollars (\$150) or more during the statement period from the person filing the statement, the amount and date of expenditures, and a general description of all such expenditures

- **EXPENDITURES = \$0**

(3) The name and address of each person who, during the statement period and for the purpose of lobbying, contributed twenty-five dollars (\$25) or more to the person filing the statement; and (4) The subject area of the legislative and administrative action and the title or titles of the bills, resolutions, or actions which was supported or opposed by the person filing the statement during the statement period

- **NO LOBBYING PERFORMED**

(5) A description of the permit, procurement, or contract management which was supported or opposed by the person filing the statement during the statement period - **NONE**

(6) The receipt or expenditure of any money for the purpose of influencing the election or defeat of any candidate for an elective office or for the passage or defeat of any proposed measure at any special or general election is excluded from the reporting requirement of this section. (Ord. No. 999, July 30, 2016).
[NO MONEY WAS RECEIVED OR SPENT UNDER SUCH CONDITIONS]

By:



Date: 4/20/2020

Allan S. Rietow