REGULAR MONTHLY TELECONFERENCE MEETING NOTICE AND AGENDA
Friday, October 15, 2021
1:00 p.m. or shortly thereafter

Microsoft Teams Conferencing Information

Click on the link below or enter the url in your network browser to join on your computer or mobile app by VIDEO:
https://bit.ly/3Bo3Nh1

Or

Dial phone number and enter conference ID to call in and join by AUDIO:
Phone: +1 469-848-0234 United States, Dallas
Phone Conference ID: 351784426#

This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by using the link above or 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 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 September 17, 2021

PUBLIC TESTIMONY

COMMUNICATION
BOE 2021-29 Email received October 5, 2021 from Lonnie Sykos to the Charter Review Commission and the Board of Ethics asking what is acceptable ethical actions by our officials.

REQUEST FOR AN ADVISORY OPINION

BUSINESS
BOE 2021-30 Discussion and possible action on letter from Charter Review Commission regarding request for proposals to amend the Charter.
**DISCLOSURES**

**Employee:**
1. Arryl Kaneshiro, Councilmember

**EXECUTIVE SESSION**

ES-018

Pursuant to Hawai‘i Revised Statutes §92-4, §92-5(a)(4), §92-9(a)(1-4) and (b), the purpose of this Executive Session is for the Board to approve or amend the Executive Session Minutes of September 17, 2021, and to consult with its attorney on issues pertaining to the Board’s powers, duties, privileges, immunities, and /or liabilities as they may relate to this item.

ES-004 BOE 2021-08

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 a notarized formal complaint received February 8, 2021, charging 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 B, 20.02 E and 20.02 F.

No officer or employee of the county shall:

B. Disclose information which, by law or practice, is not available to the public and which the officer or employee acquires in the course of the officer or employee’s official duties or use such information for the officer or employee’s personal gain or for the benefit of anyone.

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-012 BOE 2021-22

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 be updated on the response to a notarized formal complaint received July 29, 2021, charging 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, Standards of Conduct.

ES-013 BOE 2021-23

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 be
updated on the response to a notarized formal complaint received July 29, 2021, charging 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, Standards of Conduct.

ES-014 BOE 2021-24 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 be updated on the response to a notarized formal complaint received July 29, 2021, charging 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, Standards of Conduct.

ES-015 BOE 2021-25 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 be updated on the response to a notarized formal complaint received July 30, 2021, charging 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, Standards of Conduct.

ES-016 BOE 2021-26 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 be updated on the response to a notarized formal complaint received August 3, 2021, charging 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, Standards of Conduct.

RETURN TO OPEN SESSION
Ratify on Board actions taken in Executive Session.

ANNOUNCEMENTS
Next Meeting: Friday, November 19, 2021 at 1:00 p.m.

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: Aaron Larrimore, Deputy 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 asegreti@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, or mailed: County of Kauai, Office of Boards and Commissions, Board of Ethics, 4444 Rice St., Ste. 300, Lihue, HI 96766.

SPECIAL ASSISTANCE

IF YOU NEED AN AUXILIARY AID/SERVICE OR OTHER ACCOMMODATION 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 KAUI
Minutes of Meeting
OPEN SESSION

<table>
<thead>
<tr>
<th>Board/Commission:</th>
<th>BOARD OF ETHICS</th>
<th>Meeting Date</th>
<th>September 17, 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Teleconference</td>
<td>Start of Meeting:</td>
<td>1:00 p.m.</td>
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<tr>
<td></td>
<td></td>
<td>End of Meeting:</td>
<td>3:23 p.m.</td>
</tr>
</tbody>
</table>

Present
Chair Susan Burriss, Vice Chair Mia Shiraishi. Members: Ryan de la Pena, Kelly Gentry, Dean Toyofuku.
Also: Deputy County Attorney Aaron Larrimore. Boards & Commissions Office Staff: Administrator Ellen Ching and Support Clerk Malialani Kelekoma.

Excused
Secretary John Latkiewicz

Absent

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<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DISCUSSION</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Call To Order</td>
<td>Chair Burriss called the meeting to order at 1:00 p.m.</td>
<td>Chair Burriss called the meeting to order at 1:00 p.m.</td>
</tr>
<tr>
<td></td>
<td>Roll call:</td>
<td>Roll call:</td>
</tr>
<tr>
<td></td>
<td>Member de la Pena: present</td>
<td>Member de la Pena: present</td>
</tr>
<tr>
<td></td>
<td>Member Gentry: present</td>
<td>Member Gentry: present</td>
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<tr>
<td></td>
<td>Member Toyofuku: present</td>
<td>Member Toyofuku: present</td>
</tr>
<tr>
<td></td>
<td>Secretary Latkiewicz: excused</td>
<td>Secretary Latkiewicz: excused</td>
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<td></td>
<td>Vice Chair Shiraishi: present</td>
<td>Vice Chair Shiraishi: present</td>
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<tr>
<td></td>
<td>Chair Burriss: present</td>
<td>Chair Burriss: present</td>
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<td></td>
<td>Five members present, which constituted a quorum.</td>
<td>Five members present, which constituted a quorum.</td>
</tr>
</tbody>
</table>

Approval of Minutes
Open Session Minutes of August 13, 2021
Vice Chair corrected page 2 second sentence underlined, starting with Chair Burriss, should be deleted.

Vice Chair Shiraishi moved to accept the minutes as corrected. Member Toyofuku seconded.

Voice vote: 5 ayes, 0 nays
Motion carried 5:0
<table>
<thead>
<tr>
<th>SUBJECT</th>
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<tbody>
<tr>
<td>Public Testimony</td>
<td>None</td>
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<tr>
<td>Communication</td>
<td>None</td>
<td></td>
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<tr>
<td>Request for Advisory Opinion</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Business</td>
<td>BOE 2021-28 Review letter sent to Councilmember Cowden re: RAO 2021-03 dated August 26, 2021.</td>
<td>No action</td>
</tr>
<tr>
<td>Disclosures</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Executive Session</td>
<td>ES-017 Pursuant to Hawai‘i Revised Statutes §92-4, §92-5(a)(4), §92-9(a)(1-4) and (b), the purpose of this Executive Session is for the Board to approve or amend the Executive Session Minutes of August 13, 2021, and to consult with its attorney on issues pertaining to the Board’s powers, duties, privileges, immunities, and /or liabilities as they may relate to this item. ES-004 BOE 2021-08 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 a notarized formal complaint received February 8, 2021, charging 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 B, 20.02 E and 20.02 F. No officer or employee of the county shall: B. Disclose information which, by law or practice, is not available to the public and which the officer or employee acquires in the course of the officer or employee’s official duties or use such information for the officer or employee’s personal gain or for the benefit of anyone.</td>
<td></td>
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<tr>
<td>SUBJECT</td>
<td>DISCUSSION</td>
<td>ACTION</td>
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<tr>
<td>E. Use the officer or employee’s official position to secure a special benefit, privilege, or exemption for the officer or employee or others.</td>
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<td>F. Use county property for other than public activity or purpose.</td>
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Member de la Pena moved to move to Executive Session at 1:08 p.m. Member Toyofuku seconded.

Voice Vote: 5 ayes, 0 nays. Motion carried 5:0
Return to Open Session

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<tbody>
<tr>
<td>Return to Open Session</td>
<td>The Board resumed in Open Session at 3:20 p.m. Roll call: Member de la Pena: present Member Gentry: present Member Toyofuku: present Secretary Latkiewicz: excused Vice Chair Shiraishi: present Chair Burriss: present Five members present, which constituted a quorum.</td>
<td></td>
</tr>
<tr>
<td>Ratify on Board actions taken in Executive Session.</td>
<td>Member de la Pena moved to ratify the actions taken by the Board in Executive Session on ES-017. Member Toyofuku seconded. Voice Vote: 5 ayes, 0 nays. Motion carried 5:0</td>
<td></td>
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</tbody>
</table>

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<thead>
<tr>
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<tbody>
<tr>
<td>Announcement</td>
<td></td>
<td>Next Meeting: Friday, October 15, 2021 at 1:00pm</td>
</tr>
<tr>
<td>SUBJECT</td>
<td>DISCUSSION</td>
<td>ACTION</td>
</tr>
<tr>
<td>---------------</td>
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<tr>
<td>Adjournment</td>
<td></td>
<td>Hearing no objections Chair Burriss adjourned the meeting at 3:23 p.m.</td>
</tr>
</tbody>
</table>

Submitted by: ___________________________________________ Reviewed and Approved by: ___________________________________________
Anela Segreti, Administrative Specialist                        Susan Burriss, Chair

( ) Approved as circulated.
( ) Approved with amendments. See minutes of___________
Aloha

In the following I mention several issues asking what is acceptable ethical, not legal, actions by our officials. I tried to provide some historical perspective.

Since the Mayor and Council Chair deem it wise to keep the County closed to in-person participation, I will address my County enterprise through this editorial piece.

To the Charter Review Commission – please place on the next ballot the charter amendments required for the public to recall by petition and vote all elected and appointed persons, and every employee allowable under our labor contracts. Also, please review the language of the Police Commission in the Charter and provide amendments to the Charter to remove the Police Commission from being badged officers under the direct control of the Chief and make them instead an independent with authority for oversight commission of members of the general public.

Is it time for our County to reopen to the public? The County claims it remains closed for the safety of our employees and because the Governor’s rules won’t allow them to open.

Nothing in the State rules prevents the County from reopening to the public if the County were to implement the necessary safety precautions. The Council met publicly with protestors, but refuses to allow the public personal access to meetings. The Mayor attends Chamber of Commerce meetings and meets in person with the business community, but the County on whole is still closed to the general public. In regards to our democracy, Zoom meetings serve solely to insulate politicians from having to engage with their constituents face to face.

How ethical is it for the County to attend Chamber meetings in person, be courting tourists to return, encourage businesses to open, covid restrictions are limited, to encourage the public to move about at will and visit public accommodations, and then to not re-open all Offices, Commissions, and the Council to public attendance because it is “unsafe” for employees?
How ethical, not legal, is it for the County to create a Lihue retail business owned by the County? Economic development apparently means no support for existing small businesses, but use tax money to subsidize a competitive retail store in Lihue in direct competition with the retailers currently providing the same opportunity the County hopes to cannibalize from struggling retailers. Business failures launched by the County include the County Campus food court and meat packing facility proposed and funded by the former Mayor. It was a potential disaster the Council chose to terminate after spending considerable money on dubious plans.
Helicopter rescue services (a common commercial enterprise) initiated for the Fire Department are a multi-million dollar a year financial fiasco providing 100% Kauai tax payer subsidized free air ambulance services for primarily State Parks, costing us millions of dollars a year in helicopter expenses and the training (all over time pay) of our entire fire department in aerial operations in order to provide free rescue service for State Parks.
Most recently, the disaster of a commercial Adolescent Treatment Facility enterprise losing at this point 9 million dollars in physical improvements, and the utterly wasted wages and retirement payments for the thousands of hours spent on the project over the last 12 years. Settlement costs with contractor to be determined at trial.
How ethical is it for the County to become a real estate development company thru condemnation?
The proposed property condemnation in Kilauea is a public disaster occurring as the County moves deeper into the project. One ponders with all the empty land available, why this parcel at this time was selected. The project does not seem to be about building as many permanent affordable rentals as possible, but rather for a handful of County “insiders” the once in a life time opportunity to buy a fee simple parcel subsidized by the public. The Council should expect significant public resistance to their scheme when the property owner defends his property rights in court.
Ethics Commission – was it ethical (not legal) for the administration to utilize the Adolescent Treatment Facility (ATF) for covid or other purposes in direct violation of our contract with Grove Farm?
Was it ethical for any elected (swore oath) or for any County employee with a license to practice law in Hawaii to not try to prevent the ATF miss-use per our contract?
Will the Ethics Commission file ethics complaints with the State Bar’s Disciplinary Committee if County employed attorneys were party to the covid or other miss-use of ATF which violated our contract with Grove Farm? If not, why would you not
file complaints given your commission name and the size of the damage to the public?
Accountability is an issue on Kauai. Ethics Commission, how ethical was it for the Police Commission to fine our Chief over his racist comments and attitudes? Our ex-Mayor wasted more than a million dollars on legal expenses when he sued the ex-Chief over exactly the same issue of an external party exerting influence and control over the Chief. The ex-Mayor was re-buffed at every level of court, including being excoriated by the Hawaii State Supreme Court. Which cost we taxpayers not one, but two settlements with the ex-chief.
The County Charter clearly states that the Chief has absolute authority over the department. The Charter clearly states that the Police Commission Members are badged and sworn members of KPD and thus completely under the chief’s authority. Can the servant whip the master without his permission? Was it ethical for the Police Commission to appear to fine their boss the Chief when by the Charter he had to collude/agree to fine himself? Is police “Pretzel Logic” ethical?
To close, I was a resident of Hana District, Maui, decades ago when we were a State canoe district with N. Kauai. Of all the politicians who came to Hana and campaigned, I barely remember the names of two. A quite young Gary Hooser and eloquent Mina Morita promised the people of Hana they would not help in any way with the commercial exploitation of Hana District, unlike the nameless ones who all wanted us to elect them and they would help us develop Hana into a Hanalei/Princeville style destination. In response to why would we would want to ruin our rural lifestyles, we were informed that we would get rich being the first ones there. Winner take all, the devil take the hind most. Aloha.

Lonnie Sykos  
Kapaa  
808 280 1654
October 1, 2021

Chair Susan Burriss
Board of Ethics
c/o Boards and Commissions
4444 Rice St., Ste. 300
Lihue, Hawaii 96766

RE: Requesting any proposals to amend the Charter

Dear Chair Burriss and Members of the Board of Ethics:

You are invited to present any proposals you may have on any Charter amendments you would like the Charter Commission to consider.

Should you want to propose any amendments, please provide a brief background on the issue and how the amendment will address or solve the issue.

Should you have any questions, please feel free to contact, Ellen Ching at eching@kauai.gov or at 241-4922.

Sincerely,

Reid Kawane, Chair
Charter Review Commission