

**Hilo, Hawaii  
Tuesday, June 19, 2007**

**The regular meeting of the Merit Appeals Board, County of Hawai`i, was held in the conference room of the Department of Human Resources, 101 Pauahi Street, Suite 2, Hilo, Hawai`i, on Tuesday, June 19, 2007.**

**Present:**

**Mr. G. Rick Robinson, Chair  
Mr. Clifford Kaminaka, Vice Chair  
Mr. Joel Cohen, Member  
Ms. JoAnne Balberde-Kamalii, Member  
Mr. Michael R. Ben, Director of Personnel  
Ms. Diane Noda, Deputy Corporation Counsel  
Ms. Velma Y. Menezes, Secretary-Reporter**

**Excused:**

**Ms. Kaliko Chun, Member**

**Chair Robinson called the meeting to order at 9:30 a.m.**

**MINUTES OF MAY 15, 2007**

**MOTION: Mr. Cohen moved that the minutes of May 15, 2007 be approved as circulated. The motion was seconded by Ms. Balberde-Kamalii and unanimously carried.**

**COMMUNICATIONS**

**A) Communication No. 07-08, copy of a memorandum to Nelson Ho, Director of Environmental Management, from Michael R. Ben, Director of Human Resources, regarding Saturday, May 12,**

**2007, News Article in Hawaii Tribune Herald and West Hawaii Today.**

**Mr. Ben reported that after receiving the above letter, the Director of Environmental Management ordered personnel staff to complete the rejection letters.**

**B) Communication No. 07-09, received May 24, 2007, Notice of Appeal to Circuit Court; Statement of the Case; Designation of the Record on Appeal; Order for Certification and Transmission of Record; Exhibit “A” Certificate of Service, in the matter of the appeal of Troy Familiar.**

**Mr. Kaminaka commented that he doesn't agree with some of the statements in Mr. Udovic's Statement of the Case.**

**Ms. Noda suggested forwarding any comments on the case to the Board's attorney.**

**Mr. Cohen stated for the record that his determination of the case is whether “it's the fact of policy and procedure within the department or lack thereof,” and not the probationary issue.**

**Mr. Ben stated that generally the Court will look at the case to see whether the Board exercised its authority properly. The Court is not going to decide on whether the Board made the right judgment or the wrong judgment. The only time the Court would get into the merits of the case is if it thinks the Board made an egregious violation of law.**

**Chair Robinson stated that the Board can have more discussions on this the next time Mr. White is here.**

### **UNFINISHED BUSINESS**

**A) Christine Sipes' appeal hearing.**

**Ms. Menezes reported that her attempts to contact Ms. Sipes prior to today's meeting were unsuccessful.**

**Chair Robinson requested that the same letter be sent to Ms. Sipes again stamped “second copy.”**

**Item B was deferred to after the Director’s Report.**

### **DIRECTOR’S REPORT**

**Mr. Ben reported the following:**

**1) He decided not to respond to the article in the paper about demographics and the County’s workforce.**

**First of all, the article comparing the County’s workforce to the number of residents is totally wrong. You compare your workforce with the workforce that’s available. Children and people who are retired should not be counted. Notwithstanding that, the County of Hawaii is still behind in the workforce with respect to Whites. It was reported the workforce of Whites is 34%. The County is at 26% of Whites. However, the same is true of other portions of the County’s workforce too, including Koreans at .7%, and others.**

**An interesting aspect of the County’s workforce is that in all categories of interest to the EEO, the County is over-represented with Whites, except in the category office clerical. Officials and administrators are at 49%, professionals 29%, technicians 27%, protective service 37%, paraprofessionals 38%, skilled craft 34%, service maintenance 23%, and office clerical 19%. The person who complained to the newspaper was in that category, office clerical, at 19%. So basically what’s happening is that office clerical is skewing the County’s representation because they’re low in that category. Overall they fall below the workforce of the 34%.**

**In response to Chair Robinson on how these statistics are acquired, Mr. Ben explained that under the EEO laws, if a person was raised in a Filipino culture, for example, even though the person is White, that person can check off Filipino.**

**Mr. Ben added that the office has not received any equal opportunity/civil rights complaint from that person who complained to the newspaper.**

**2) There's a dispute going on right now, which the Mayor has gotten involved in, about a situation involving a high-level manager from another department who is unhappy with a decision and wants to talk to a member of Mr. Ben's staff on the matter. However, this person won't commit to not yelling at the person, and both Mr. Ben and Mr. Takahashi are in agreement that they will not tolerate that kind of treatment of their staff.**

**Mr. Cohen repeated his feeling that whoever that person reports to needs to take some action when that type of behavior happens.**

**Ms. Balberde-Kamalii commented on the terrific opportunity the situation presents to work with management on identifying what is acceptable and what is not, because it goes back to both the formal and informal lines of communication. Formally, contingent on a person's position, a person can set the pace or the momentum for that department. She felt that this presented a wonderful opportunity for training.**

### **APPEAL HEARING – WILLIAM SHAPIRO**

**Chair Robinson noted that Mr. Shapiro's appeal hearing was continued to September 18. He asked whether Mr. Shapiro had filed a complaint with the EEOC.**

**Ms. Noda reported that her office just received a copy of the Notice of Charge of Discrimination. As Mr. Shapiro was unhappy with the Motion to Dismiss that Ms. Noda filed last week, her office will follow up with a written notice to the Board on the Civil Rights Commission matter so that Mr. Shapiro will also know what they're notifying the Board about.**

**Ms. Noda also reported that her office is in transition this month on attorney assignments, and she believes there will be a new attorney assigned to the Board next month.**

### **UNFINISHED BUSINESS**

**B) Review questions, discuss process and timetable for evaluation of Director of Human Resources.**

**The Board reviewed the questionnaire, marked confidential, drafted by Mr. Cohen.**

**Mr. Ben suggested inserting “with the Director” on question #2 after “what issues, subjects are commonly discussed.” He suggested inserting the same on question #3.**

**Question #2 should also include employee relations, which generally covers such things as administration of the FSP, leave sharing, etc.**

**#4 was changed to: Are written policy and procedure memos signed by the Director are easy to understand and implement?**

**Mr. Kaminaka noted that #5 would open the Board to subjective responses, which will be difficult to measure. They may get comments that may be subjective, but may be valid.**

**Ms. Balberde-Kamalii commented that #5 is what she would call a double-gifted question, because while it’s subjective and people will base it on their perception, they’re also giving the Board their attitude towards work and their own role. From a sociological point of view, it gives a lot more information than what is being sought, and it’s not necessarily a bad question. The intent and purpose is good because it’s going to give the Board two views of looking at it.**

**Mr. Ben suggested taking out “serious” from “serious problem exists” and adding “please provide specific examples.”**

**Mr. Cohen stated that question #6 speaks to both the Director's evaluation and the Merit Appeals Board, which hears complaints and problems. However, there's also a desire to prevent problems from happening, and he sees the Board's role as that.**

**After discussion, part of #6 was changed to: Do you feel that some appeals could have been prevented if the Director and his staff had provided you with additional support?**

**Mr. Ben noted that a specific time period should be included in the questionnaire. As this is an annual evaluation, the respondents should be made aware that they are only looking at a specific time period.**

**Chair Robinson stated that the "period of July 2006 to June 2007" will be added to the document title.**

**In reviewing the previous distribution list, the Board deleted staff and other jurisdictions from the list, keeping it internal with other departments in the County.**

**Mr. Cohen noted that after receiving the questionnaires, feedback in the form of a report should be given to Mr. Ben on what the results were for discussion purposes. Staff could provide assistance in drafting the report.**

**Chair Robinson asked that the letter to the Mayor also be attached to the cover letter to the department heads so that they are aware that the Board has communicated with the Mayor as well. Upon completion of the evaluation, the Board will send out a thank-you letter to the department heads and address any specific concerns, as appropriate.**

**In reviewing the draft letter to the Mayor, Chair Robinson noted that his phone number is included in it should any department head feel uncomfortable about the questionnaire.**

**Mr. Ben suggested changing the second paragraph to read “. . . which has been distributed . . .” and that both letters go out simultaneously.**

**Ms. Menezes noted that “and other key persons” should be deleted, and Mr. Cohen suggested that “confidential” be added throughout the letter to read “confidential questionnaire.”**

**Chair Robinson stated that the letter will be addressed to “department head or deputy” with one questionnaire sent to each department. Ms. Menezes will draft the cover letter and email it to Chair Robinson for any changes.**

**MOTION: Ms. Balberde-Kamalii moved that the Board proceed with the evaluation process utilizing the draft letter to the Mayor, the evaluation survey distribution list, and the confidential questionnaire. The motion was seconded by Mr. Cohen and unanimously carried.**

#### **NEXT MEETING DATE**

**The Board scheduled its next meeting date for July 17, 2007 at 9:30 a.m., followed by Mr. Paul Paiva’s appeal hearing at 10:00 a.m.**

**The meeting adjourned at 10:25 a.m.**

**Respectfully submitted,**

**Secretary, Civil Service Commission**

**APPROVED:**

**G. Rick Robinson  
Chair**

**vym**