

HAWAI‘I COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

Wednesday, March 14, 2007 – 10:00 a.m.

Hilo Lagoon Centre, Liquor Control Conference Room #230,
101 Aupuni Street, Hilo, Hawai‘i 96720.

Present: Wayne Joseph, Chair (WJ)
Ann Lum, Vice Chair (AL)
Reeve Williams, Member (RW)
Kendall Sharpless, Member (KS)
John Dill, Member (DS)

Absent: Kerry Inouye, Member (KI)

Also Present: Bobby Jean Leithead-Todd, Deputy Corporation Counsel (BLT)
Karen Delimont, Secretary (KD)

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1. CALL TO ORDER

The Chair called the meeting to order at 10:02 a.m.

2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

There were no members of the public present.

3. APPROVAL OF MINUTES

Minutes of the February 14, 2007, Regular Session: Ms. Lum moved to accept and file the Regular Session minutes; Mr. Dill seconded the motion; all members voted aye. Motion carried.

Minutes of the February 14, 2007, Executive Session: Ms. Lum moved to accept and file the Executive Session minutes; Ms. Sharpless seconded the motion; all members voted aye. Motion carried.

4. UNFINISHED BUSINESS

a. Review draft of Hawai‘i County Board of Ethics Handout for new employees, board and commission members, and elected officials.

AL: I have a wording question. On page 3, Public Contacts, I mean Public Contracts. Page 3, right hand column, Public Contracts, it says “Unless the contract was awarded pursuant competitive...”

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BLT: Oh, it should have said “pursuant to ...”

AL: I just wondered if that was a special kind of language.

BLT: No.

AL: Also, on the second paragraph from the bottom “nay, they ...” These things don’t show up in your spell check, right?

BLT: Yeah.

AL: “... any” after a certain time you never see it.

BLT: Which?

AL: Next to the last paragraph in the right hand column second line “... on behalf of [a]ny person.” It is just a typo. Do you see it? “nay ...”

BLT: Wait, page 3?

AL: Page 3, second to the last paragraph “...the term represents means to engage in direct communication on behalf of [a]ny ...” See, you have been looking at it too much.

BLT: Oh, okay.

AL: The next page, you can tell I was looking at this. I have to proof my husband’s stuff all the time.

WJ: You must be good at it.

AL: As long as it is not spelling, I see stuff, but spelling I’m terrible. We are on page 4 and I have lots of little notes, but I think you might have done these things. Oh, I know what it is. Financial Disclosure, who must file, public disclosures, confidential disclosures, okay see list, right? Then it says employees. Then when it says when to file a disclosure we show officers and regulatory employees, but up on the top, when we say who must file ... You see what I am saying we don’t relate the employees there to officers and regulatory employees. We don’t categorize like the same. I’m not sure how ...

BLT: I should make them regulatory.

AL: Called regulatory employees?

BLT: Well, actually ...

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AL: See, some of them aren't. It is like we have two categories or categorization systems going here and we haven't got them interrelated and I don't have a suggestion as to how to do that.

BLT: I'm going to stick regulatory employees on the top.

AL: These are all regulatory?

BLT: Yep.

AL: And then officers are? Officers include us, right?

BLT: Yep.

AL: So, maybe we need to somehow to relate that and make it clear because this is for the general public.

KS: Yeah, officers, boards and commission members excepting ...

AL: Officers is defined in several places, but I think in this little handout ...

BLT: I should add one for Boards and um ...

AL: We need to ... All I have is to interrelate these things. I don't think I got much farther.

KS: Members of certain boards and commissions.

AL: Boards and commissions, we are going to have a list, see the list for the financial disclosure forms.

BLT: Yeah.

AL: So, that is okay. What I am concerned about is when to file. All officers shall file a financial disclosure within 20-working days so on and so forth, but if you look at this "Oh, I'm a new employee and I am reading this, and oh who is an officer," so I look up to see who must file and there is no one named officer. It is just a clarity thing. Which we are trying to be, right? Then I think I had to proof some bylaws for my husband and that was the end of my ... Oh there was just a little ... which you took care of. I think it was just little formatting things. I think the very last page, pages 7, 13 and 14, if you just ... you have all the other ones done in all caps and bolds except for number 10, that lost it's bold, it is just a formatting thing.

BLT: I was playing with this too, with some of it in terms of size and stuff I need to go back in and underline to be consistent.

AL: Maybe Karen has to do that. You lost your bold on number 10, Compensation.

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KS: What? Oh, right.

AL: See what I mean about obsessive details.

WJ: You're good, because I don't see these things.

AL: I see it in published books and newspapers are terrible.

WJ: Let's not talk about newspapers.

AL: That is all the little nit-picky things that I have.

BLT: Oh, I've got different fonts, italics, and regular on other ones. The only real difference, other than highlighting and putting in bold and underlining, is on page 2. That should be in bold, under Fair Treatment. On the first column, towards the bottom, under Fair Treatment, there is a new section called "Note." That was because Section 13-10 is actually not in the Code of Ethics. It is in another section of the Charter, but the appointment of a relative would be the use of your county position to secure grant and unwarranted privilege. That is why I put it in. It is also a conflict of interest to supervise a relative, unless it's your civil service and their civil service.

AL: That is good.

WJ: Let me ask you, when a candidate files for office and they file a financial disclosure who gets to see that?

BLT: Anybody can go and request to see it.

WJ: It becomes public record?

BLT: Yeah, it gets filed. Actually, it goes to the elections office and anybody that wants to can go and look at that, and on top of that ...

WJ: But, is there a group that insures that it is filled out correctly?

BLT: Yeah, the Elections people look at it, not to mention news reporters. Then all the campaign spending reports, they have gradually been moving to online so they are accessible. Depending on where you file there is usually a hard copy available. The difficulty has been that the software that people use has, maybe they have worked the glitches out. When I was doing mine they had glitches and it didn't add stuff up right, so we didn't want to transmit electronically because there were two problems. One, the transmitting of information that wasn't required to be disclosed. The other one was that it wasn't adding up the numbers right and we could never get the software so we would do a hard copy and submit it. Nowadays you could scan it and email it. There were some real problems. There is much more information than there

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used to be and it is easier access. The gift disclosures are upstairs, and sometimes we have reporters come and ask for copies of those.

WJ: That is something we get to look at right?

BLT: Yeah, we get to look at gift disclosures. There is a difference I noticed on the state level. There are a lot more things that go through the State Ethics Commission. Like the ones that are filed with the County Clerk are filed with the Ethics Commission on the State level; both the public and the confidential ones. I think the reason that they set it up here with the Clerk is that the Clerk is there everyday and they are generally the keeper of official information and it was easier to have people go to the Clerks office to get copies of material rather than go to Corporation Counsel. So you have one repository for the public stuff. I think they also keep copies of the gift disclosures.

WJ: Is there any further comments on this?

JD: BJ, so in terms of text revisions to the code, only that note referring to Section 13-10 is the only addition?

BLT: Yeah, from the last version. Now I need to clean up the typos and play with the font. We were waiting to see if the Council would amend the list of people who have to file. So I have been playing with it. Should it be "see the list," or my preference is probably to plug in the names of boards and commissions that are required to file.

AL: I like that, but then that means if it gets revised we need to remember to revise it.

BLT: Then I started dating each edition. It is such a hard time on the computer ... Draft 1, Draft 2, what date was that? So today's draft on the computer is the 3-14-07 draft.

AL: My favorite part of this is the Ethics Checklist. I really like it. That is really a friendly document. It seems to hit the ordinary things people are going to be up against.

KS: It is an interactive, and I want to know if do we, can we discuss at this point the procedure or the process of this from new employee through Human Resources.

BLT: I think that is a legitimate discussion. The whole point of us coming up with this is to insure that it gets disseminated to newly elected officers, new department heads, and new employees.

KS: Are you, should we write a draft procedure so that the people that need to sign on to this, perhaps Human Resources, the department heads, because other people are going to be responsible for this full activity. I am sure there will have to be some negotiation from you to them, like "What, another piece of paper? No way." So that we can give it to the Council as here is a brief procedure which could be implemented department wide ...

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BLT: The way we do other documents is that you are required to sign a form which goes, I think, in your personnel file. It that states that you have received and read the Sexual Harassment Policy, that you have received and read ... Like if you have access to a computer, you have to sign the form that says you've read the county policy on use of the county computer and what you can and cannot have.

KS: Can we get this attached or added on. Because then they already have a procedure for certain forms that everybody has to be accountable to.

WJ: There might already be on there.

BLT: I'll check with Mike Ben.

WJ: It might be ...

AL: I think it would be ... if you want this to be used by the people, it would be nice if it was published like a little booklet, or something a little bit more than a piece ...

BLT: I can talk to the machine room and see what they can do.

AL: When I think of our Sunshine Law, it is something that could sit in a desk, somebody's desk. Not just my personnel file, which is in the back of my file cabinet. A little more user friendly.

BLT: If we are going to do it that way then we would change this around a little bit, so instead of the two columns ...

AL: Yeah, that is just the formatting.

BLT: The machine room can do stuff like that.

AL: To me, if we want it to have an impact, if we want it to become part of people's working lives, and useful, maybe it has to be easy to find, and a different color.

BLT: Easy to find, so it sticks out and doesn't look like another piece of paper.

AL: It could sit on their bookshelf. I have hopes for this kind of document that might make life easier on some of these decisions. I may have rose-colored glasses on but ...

BLT: On the other material that I passed out, this is for future review. The first one that says legislative agencies on top, if you go to the last page, I thought it was kind of nice and it is basically a chart that shows the different functions of the State Ethics Commission. I was looking at it and thinking that it would be nice to have a look at your roles and functions in a similar fashion. One thing is ... like they see their role as educating, right. It was a nice breakdown, and I thought it was a useful document. It is not part of their rules and regulations,

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but since we are looking at rules of practice and procedure, and looking at what we are trying to achieve I thought it was a nice overview and might be useful.

AL: This is nice.

KS: To be added on to this, the Ethics guideline?

BLT: No, just for you.

KS: Are we pau with this discussion?

BLT: Well, you were talking about the brochure stuff, so I was thinking about it. I don't know if you have ever defined your role. Part of your role is education and publication and getting people to know the rules, that is why I did this. I thought it was nice. When we are looking at what you do and what your mission is, part of the whole reason we are doing the guide is for education and prevention. We are trying to prevent problems from occurring by getting the word out on [inaudible].

KS: So this won't be part of the handout.

BLT: No, it is just for your reference. I thought that we haven't ever thought about it, but it is not just receiving opinions and looking at disclosures.

AL: I think when Kendall came onboard; my whole impression of Kendall is the education process, which is a strength she has.

KS: Okay, I understand that this will go in our documents. This document--no.

BLT: This document is pretty much done except for cleaning it up and waiting to see the list.

WJ: How about a motion to accept with changes?

Motion and Vote: Ms. Lum moved to accept the 3/14/07 Draft of the Ethics Guide for Hawai'i County Officers and Employees with the new changes and formatting and that it be placed on the next Agenda under Unfinished Business. Mr. Dill seconded the motion; all members voted aye. Motion carried.

BLT: I am going to talk to the machine room about if we can do a booklet and then come with a sample.

KS: As long as the Unfinished Business includes the accountability part, whether this gets signed for or whatever.

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WJ: No, we are way far away from everything right now. It is just in the draft stages. It is all part of our ongoing business. I would imagine this will be homework for the next meeting.

BLT: I think for our next meeting, I'm not sure how long we deferred looking at our rules and stuff. Was it our next meeting?

AL: No, I think it is months away.

BLT: It was later, yeah. I am going to look for stuff then dole it out.

b. Review of destruction of records schedule.

WJ: Does everyone have that with them? I am going to borrow Kendall's.

KD: I found this when I was going through my stuff. I had the old retention schedule then I noticed this new one behind it and thought I would send to everyone to look at.

AL: Then last month we had the changes, right? When Lincoln was here.

KD: Last month when Lincoln came and spoke with us he said that if there were things that you wanted to change, you could bring it before their committee. What happened was that I had stated that I thought there was no destruction date for the Financial Disclosures. But this is the latest and the disclosure only need to be kept for six years. That is why I sent this out, because it appears that this is the latest schedule.

WJ: Anyone have any concerns about the current schedule? If not how about we entertain a motion to accept and file this document.

Motion and Vote: Ms. Sharpless made a motion to accept and file the document. Ms. Lum seconded the motion; all members voted aye. Motion carried.

Motion and Vote: Ms. Lum made a motion to move into Executive Session; Ms. Sharpless seconded; all members voted aye. Motion carried.

5. EXECUTIVE SESSION

The Board re-entered Regular Session at 10:44 a.m.

Motion and Vote: Ms. Sharpless moved to accept and file the financial disclosures for Daniel B. Banks, John Dill, Karen Kudlo, Michael Gleason, Andrew Levin, Florence Mitchell, Sean T. Oda, David Y. Omura, Riley Smith, Emma Sousa and Steve K. Wilhelm and return the following financial disclosure to Kathleen Lassiter for clarification. Mr. Dill seconded the motion; all members voted aye. Motion carried.

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6. ANNOUNCEMENT

The next regular monthly meeting is scheduled for Wednesday, Wednesday, April 11, 2007 at 10:00 a.m., Ben Franklin Building, 333 Kilauea Ave, 2nd Floor, Hilo, Hawai'i 96720.

7. ADJOURNMENT

Motion and Vote: Ms. Lum moved to adjourn. Mr. Dill seconded the motion; and all members voted aye. Motion carried.

The meeting adjourned at 10:47 a.m.

Respectfully submitted:

Karen Delimont, Secretary