

HAWAII COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

April 12, 2005 ~ 10:10 a.m.

Liquor Department Conference Room
101 Aupuni Street, Suite 230, Hilo, Hawai'i 96720

Present: Reeve Williams, Chairman
Kerry Inouye, Member
Wayne Joseph, Member
Karl Kawahara, Member (arrived 10:15 a.m.)
Bobby-Jean Leithead-Todd, Deputy Corporation Counsel
John D. Kim, Special Deputy Corporation Counsel
Mary Crosson, Secretary
Paulette Cainglit, Secretary

Also Present: Lincoln S. T. Ashida, Corporation Counsel (Petitioner)
Ronald Thiel, Petitioner
Barbara Lively, Petitioner

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CHAIR: The Board of Ethics meeting will come to order. We do have members of the public here—are there any statements from the public at this time? Actually, all these members are here to testify or to petition, so we can defer our statements from members of the public and move right on to the order of business. The first thing I want to say is welcome to the newest member, Wayne Joseph, who is on the Board of Ethics, _____, glad to have you, in fact we need you here today to have a quorum, and we do have a quorum. So, there are no statements from the public, so approval of minutes. Have you had a chance—have you had a chance to review the minutes of—

WJ: I did read the minutes, yeah.

CHAIR: _____, basically, do you have any additions, do you see any additions?

KI: No, I don't.

CHAIR: Wayne, you—

WJ: I can make no comments on the minutes—

CHAIR: It's just a big garble, thanks to me. Do we have a motion to accept and file?

KI: I move that we accept and file the minutes of the regular session.

WJ: I don't know if that's appropriate, that I wasn't here for the meeting, and wasn't aware of any of the—

CHAIR: Okay, I'll vote to second. Any discussion, other than your concern that you weren't here, to review those minutes? Are we on solid ground, counsel? Bobby Jean, are we on solid ground to act on this?

BJLT: Normally, to accept we need a majority, and normally to vote on that you need to be in a position to have read the minutes. I think Mr. Joseph, if he's read the minutes, could vote to accept them.

CHAIR: Yeah, because the other member, Mr. Kawahara, is missing at the moment, and the other newest member wasn't here present for the minutes, either. So if we want to file this motion, to file these minutes, I think we need to vote on this. I move that we vote, and all in favor?

KI: Aye.

WJ: Aye.

CHAIR: The Chair votes aye, accepted. That was the Regular Session minutes. Also there's Executive Session minutes. Have you read the Executive Session minutes?

WJ: Yes, I have.

CHAIR: Kerry?

KI: I move that we accept and file the Executive Session minutes.

CHAIR: Do I hear a second? You've read them?

WJ: Yes, I have.

CHAIR: Any discussion, corrections, additions? If none, Chair votes aye, and calls for a vote.

KI: Aye.

WJ: Aye.

CHAIR: Ayes have it. Item 4, Communications, we have a letter from Corporation Counsel to nominate Karl Kawahara and Wayne Joseph to the Board of Ethics.

MC: The letter was from Mayor Kim.

CHAIR: I'm sorry, Mayor Kim. Got my parties mixed up. Do I have a motion to accept and file that letter?

KI: I move that we accept and file the letter from Mayor Kim.

CHAIR: Second?

WJ: I'll second.

CHAIR: And vote?

KI: Aye.

WJ: Aye.

CHAIR: I'd like to—the Chair, if it would suit the Board, the Chair would like to move that we skip at this point right to Item number 6, New Business, and return later to Unfinished Business, in recognition that we have several folks who traveled a long way to be here, and we want to dispense with them that way. Mr.—Petition No. 2005-02, Ronald Thiel, engineer with the Department of Public Works, contracts his services to various agencies in Alaska. Do you want to step forward and have a chair, and tell us your situation? What moved you to file this petition?

THIEL: My name is Ronald Thiel. I'm a professional engineer and also an ex-traffic engineer from the State of Alaska. I'm working for the Department of Public Works, Engineering Division, in Kona for the County at this time and have the opportunity of pursuing my expertise in traffic engineering on some projects in Alaska. I am working through another engineering firm there, individual's name is Dave Grenier of Triad Engineering. He also has a firm in Hawai'i and practices in Kona. I am not—but I'm not doing any work that is on the lava.

CHAIR: On the lava—on this island.

THIEL: Yeah.

CHAIR: Let's look at engineering, so you're basically engineering, working in the engineering division of the Department of Public Works, not traffic engineering?

THIEL: Yeah, yeah, I'm not working in the traffic _____ portion, although that position is up for applications at this point in time. My application is in. But this type of work that I am doing is all outside, out of state, off-island, and I seek to confirm that no provision with the County Code is in question, of the Code of Ethics, is in question.

CHAIR: So the issue is, at this point—I'll interrupt for a moment, to welcome our newest member, Mr. Karl Kawahara. Pull up a chair to the Board of Ethics. Welcome, Karl, you're just in time.

KK: Sorry I'm late, I got hung up at another meeting.

CHAIR: Well, we're happy to have you, late or not. What we're hearing right now is Mr. Ron Thiel. We've filed the old minutes and the Executive Session minutes, and we've jumped to Item 6, New Business, and we're right on Petition 2005-02 right now. So, Karl, have you also had a chance to read the minutes—

KK: Yeah. I think you were just answering a question I had on—was he using—does he use County time, equipment, to carry out this business?

THIEL: No, I certainly—

KK: --extra-curricular activities. As a former teacher, they're known as extra-curricular functions.

THIEL: No, I am not.

KK: All right, _____.

CHAIR: Do other members of the Board have any comments or questions of Mr. Thiel?

KI: I have a question. You mentioned that at the present time the County is seeking a traffic engineer and that you have applied for that position.

THIEL: Yes, that is correct.

KI: Okay. If you were to get that position, would you continue to be doing these other works off-island?

THIEL: I believe I would. I would also have to check the work load, because it's totally different to what I'm doing now. But as long as it wouldn't—I feel that it wouldn't interfere with the work load here, I would continue to do it, but I would definitely check it at that time and see. This work that I'm doing up in Alaska is very intermittent. I can see it being maybe two or three weeks in a half a year. It's very come and go, and not really time-consuming on my part.

CHAIR: So, work over a span of two or three weeks or a month or so, part-time work, after hours—

THIEL: Yes, yeah. Basically, I'm trying to second-guess right now, but it could be 50 to 80 hours in an entire year. So it's weekend work, basically, work Saturday and Sunday _____.

CHAIR: So, I'll ask for your assistance on this thing, is this an informal advisory opinion that we're seeking to render, is that it? Yeah. The Chair has no problems with this whatsoever. I fail to see any possible conflict of interest here. I think we'd like to take a vote on it. Any further discussion from the Board on this? Karl, anything that, any other rendering—

KK: I probably should abstain, I didn't listen to the whole discussion, but I have pretty much—I did read up on what you've written here, and I have kind of formed an opinion. Do you want me to go ahead and vote?

CHAIR: Yeah, I'd like your vote. I think you're well enough informed on this, that you can cast a vote on this. So, do I hear a motion to accept a finding, a preliminary finding, a recommendation, of no conflict of interest? Is that the motion? Do I have such a motion?

KI: I'll make that motion.

CHAIR: Can I have a second?

WJ: Second.

CHAIR: Any discussions? All in favor?

KI: Aye.

WJ: Aye.

KK: Aye.

CHAIR: The Chair votes aye. Thank you, Mr. Thiel.

THIEL: Thank you very much.

CHAIR: And you're free to leave. Item b, Petition No. 2005-03, Mr. Lincoln Ashida, Corp Counsel, seeks an informal advisory opinion regarding *pro bono* work. Thank you for coming. And we're turning over the counsel at this point to Mr. Kim.

JDK: Thank you. Just for the record, I'm J.D. Kim, Deputy Corporation Counsel for the County of Maui. I'm here on a conflict of interest.

ASHIDA: Good morning, Mr. Chair, and members of the Board of Ethics. Thank you for entertaining and hearing our request for an informal advisory opinion this morning. I also thank Mr. John Kim, J.D. Kim, from the Maui Corporation Counsel's Office, who has volunteered—his office has allowed him to take time out from his busy schedule and responsibilities on Maui, to come here and represent you today, just so that there's no appearance of impropriety, because the request does affect each of the attorneys in our office. I've submitted two written communications to the Board, my original letter and a supplemental letter, concerning the CAAP arbitration process. I'm not going to reiterate or repeat any of the substantive items I put in both my communications, but I just wanted to highlight what I thought were some salient points that I felt were important to consider. First of all, even the decision of bringing this to the Board of Ethics was something that we talked about in our office, because really—we thought originally it was, you know, with all due respect, it was almost like a no-brainer. It wasn't really an issue. But then we thought, you know, what could we do. As government appointees, we need to be cognizant of the fact that we are under a microscope. The public does look to us, and the reality is that we are held to a higher standard, which we readily accept. That being the case, the attorneys in our office said, let's play it by the book, let's take the high road, take it to the Board of Ethics. So in an abundance of caution we are here today, this morning. How this issue of *pro bono* comes up, came up, is this. Our Rules of Professional Conduct, the ethics rules which govern all attorneys licensed in the State of Hawai'i, are promulgated by the Hawai'i Supreme Court. That is the _____. We attorneys read that, we need to abide by it. We don't want to violate that, otherwise our next job involves the phrase, would you care for fries with that, sir. We take it serious. One of the rules, Rule 7 in there, specifically provides—now we agreed with this. It says, I'll paraphrase, but I think I cited it in my materials, that lawyers should strive to complete 50 hours of *pro bono* work a year. It doesn't say you

have to, but it's sort of saying—encouraging you, saying you should do that. You want to improve the legal profession, donate 50 hours of your time a year, 25 hours providing direct legal services to the indigent or poor, 25 hours doing community based activities like donating your time to you, you know, helping out the AYSO soccer organization, your kids' school organization, the YWCA, that kind of thing. There's also a provision in there that says that you can report these hours and should report the number of hours—all attorneys should report these hours every year. The reality is out there. There aren't that many attorneys who do their—who fulfill these obligations and do their *pro bono* work, all right? People are busy. If you're in private practice, it's much easier—you've got to feed your family and you know, maybe there's just maybe a lack of interest out there of people wanting to do things charitable, you know, or for whatever reason. It's not my position to judge that, but the reality is, it's not happening. The Chief Justice, Ronald Moon, is being a big proponent of *pro bono*. He came to the Big Island a few weeks ago—I think I cited that in my letter. He's pushing for *pro bono*, he's encouraging the lawyers, come on, get with the program. He's always said, let's improve the image of the legal profession. He's sick and tired of the lawyer jokes, yeah. He's sick and tired of people making fun of lawyers. Mr. Kawahara is laughing, only because he was my teacher at Hilo High School, and he knows what I'm talking about. But you know, now there's talk about the Supreme Court amending the rule, not making *pro bono* required now, but at least now requiring the reporting of hours. So that's the first step, we see that as the first step. Okay, how does this affect government attorneys? There are—there is a group of government attorneys out there, not in our office but on Oahu, who are taking the position that government attorneys should be exempt from the *pro bono* requirements. Their argument is this: Well, we should be held to a different standard, because—because we're government attorneys, we shouldn't be forming these attorney-client relationships with people that may have issues before the government, the state or the county. Or, we get paid so little anyway, it's ridiculous to accept that we should do additional work. I even heard one attorney say, Oh, what we do is *pro bono*, serving as a government attorney. Okay, whatever—I'm not mentioning names, but whatever. We talked about it in our office. You look at like—Bobby Jean Leithead-Todd is here, okay. You talk about—you talk about a government, someone who has dedicated their lives to government service, who's foregone the opportunities of private practice to make the, quote, big bucks, dedicated to provide serving the community as a council member, now serving in our office. All right? That's the type of attorneys we have now, because we talked about it and we said, we're not going to try and weasel our way out of this.

There's nothing out there that says government attorneys are exempt. We don't believe we're exempt, and you know what, we don't want to be exempt, because this is our community, we live in it, we care about the people who live in this community. We understand the ethical limitations that yes, we cannot form attorney-client relationships with clients. We're not going to do that; we don't intend to do that. But what can we do? There's an out, you know, for government attorneys. Ron Ibarra, a judge—our Circuit Court judge in Kona, came to Hilo and told us this. He said, well, you know, but you government attorneys out there, you don't want to do it, or whatever, you can just contribute “x” number of dollars, write a check, donate it to Legal Aid. No, he said that, and you can do that. And you know what, all of us, all thirteen of us, we could choose to do that, but what we've chosen is to do something different. We've chosen to really have, you know—to interpret those words in Rule 7 to have some meaning. So we want to be out there in the community and do our part. So what we've done is we've built a relationship with Volunteer Legal Services Hawai'i. It's a—Bobby Jean, it's a private non-profit—

BJLT: Yup—

ASHIDA: --I don't even know if it's private non-profit or annexed to the Judiciary.

BJLT: I think it's private non-profit. Otherwise, we wouldn't be able to deduct our donations to it.

ASHIDA: Okay.

CHAIR: Not Legal Aid, this is not Legal Aid?

BJLT: This is Volunteer Legal Services Hawai'i. It's similar.

ASHIDA: But they're going to—they have already sponsored volunteer legal clinics on the Big Island. We've—and I made this voluntary for the attorneys in our office because, you know, it wasn't my place to mandate that they do it. But you know, all of them stepped forward and said yeah, we want to be a part of this, so we're going to be participating in this, providing our time and expertise to help those in the community who are not as fortunate and can't afford legal services. Now, this is in addition, now, to the fact that Bobby Jean Leithead-Todd is president of the Hilo High School PTA, or that I'm involved with the—in the Kalaniana'ole School Foundation, or that Amy Self is involved with the—a board member with the YWCA. That's all in addition to that. This is something separate. Now comes the question—now there will

be times, necessarily, where we'll get called during our regular work day, or that we need to make a single copy of something in the copy machine, or something gets faxed to us, all right. Now—and there is a recognition that there will be times when the *de minimis* use of County time or resources may be necessary in order to accomplish this. One of the important things that I think that—in our thinking, and what I present to you today, is this: To me, this is the key to what this is all about. All of this has nothing to do with personal profit for any of our attorneys. It's not about having a side business, or collecting any benefits to us personally. It is fulfilling a mandate which is part and parcel of our license to practice law, which is really what it all comes down to. Now, the benefits here go to the community. We're not benefiting the community at large, although individual members of that community may be benefactors from whatever legal services that we dispense to them. But again, I reiterate, the key is that this is not a matter of seeking personal profit, incurring personal profit upon our attorneys. About our attorneys, generally—we are all appointees. We are not civil servants. Whether they work their eight hours a day or eighteen hours a day, it doesn't matter. They get paid the same. They get paid to get the job done.

CHAIR: Here's my question from me, you don't receive overtime?

ASHIDA: Absolutely not.

CHAIR: Okay.

ASHIDA: Never have, yet. Never had, probably never will. And you know, J.D. and Bobby Jean are going to kill me for saying this, but you know, it might be a good thing. You know, there are times when they—by necessity of their work, their average day is far in excess of eight hours. They're going to get the job done, whether they happen to spend some time during their regular work day taking care of, talking to a *pro bono* client, or doing something. The work is going to get done, no matter what, whether it's the end of that day or what have you. That's just the nature of the practice of law and being an attorney. So, what I wanted to assure the Board, what I think everybody understands, is that the work does not suffer. You know, the work's going to get done, that is a foregone conclusion. The only concern, the only concern—that's to ensure that we did it right, that because we recognize that we are held to a higher standard, and which we readily accept, that there will be no issues concerning any appearance of impropriety—the fact that I have this vehicle, the Ethics Board, to ask the question, even if we have already answered it, but to ask in this proper forum. That's why we're

here today, to ask you for your time to consider this. We want to fulfill this obligation, and we seek your guidance.

CHAIR: Thank you again, and kudos for your taking the initiative to do so, on both scores. Need we ask more?

WJ: I'd just like to comment—you sound like a high school teacher. I mean, we don't get overtime, or after hours. We do lots of extra work and we still get the job done. That's what public service is, and I don't think it's reserved to attorneys, with all due respect.

CHAIR: And if it spills over to a fax transmittal or a phone call made, I think it's—clearly it's *de minimis*, is that the term, *de minimis*, is the guiding principle there. Any concerns?

ASHIDA: Well if I just may add, you know, we appreciate the fact that our office provides you legal service on a routine basis. But you know, Mr. Kim is here, and by all means, if you have any questions or concerns, I believe you have opportunity to discuss them privately with Mr. Kim, and that you're okay with that, because I just want to make sure that—

CHAIR: We understand that. Do we have a need, do we have a need for a private huddle with Mr. Kim at this point?

WJ: I do have several questions.

CHAIR: Okay.

WJ: And questions such as, you've seen public resources doing, doing their normal work, or *pro bono* work, and you've seen time towards that end—these are all questions that I think need to be discussed.

CHAIR: All right. So do you want to discuss them openly, or privately?

WJ: It doesn't matter to me.

JDK: It's your call.

KK: I'd just like to preface my questions or remarks first, with the fact that, Mr. Ashida here was destined to become a lawyer. Oh, man, he still has that oratorical diction to him—

ASHIDA: --I was sick that day—

KK: --Your homework was due—

ASHIDA: --I still maintain that.

KK: You and Brian deLima were destined to become—it was in the stars for you to become attorneys. And I must say you must be doing a good job. But I read it over, and I've got to say that, I don't know, you guys—you did a thorough job of explaining your position. But one thing I may ask is, what does—I go along with your plea, but what about changing the law? Changing that section of the Ethics Code to give you guys some leeway? I just—it might be a rhetorical question, but it came to my mind. I can see you guys work overtime and you have—I have a note here, something that you mentioned, too—isn't being a corp counsel, doing *pro bono* work, *per se* anyway? What you mentioned, private attorneys can charge by the hour. So, couldn't the law be changed to take into account what you do or don't do?

CHAIR: Which law are you referring to, the Code of Ethics, or the—

KK: --the County Code—

CHAIR: --Rule 6?

KK: I'm just using this as food for thought.

ASHIDA: To specifically allow *pro bono* or *de minimis* use for *pro bono* purposes?

KK: No, the use of County—or you get into a sticky situation.

ASHIDA: Yeah, that would require Council action, which is sticky in and of itself. And then the issue, you kind of, admittedly, I think then you go down—you start to get on the slippery slope, and you start saying okay, now you can do this—

CHAIR: --Corp Counsel can do this, what about Finance?

ASHIDA: I think that maybe on this one, Mr. Kawahara, just having thought about it right now, because you've asked the question, maybe a case-by-case evaluation, given the unique circumstances of every, of that situation, might be more appropriate.

KK: Well my thoughts on that was, if we do allow you to do this, still there would be fingers pointing—hey how come they can do it and we can't do it, you know.

CHAIR: So, Karl, it's just like if someone in Planning, or Public Works, or any other department, comes and says I'm also committed to doing *pro bono* work—

KK: --well not necessarily *pro bono*, but you know, how come they can get an exception? I fully understand where you're coming from. I've read this thing backwards and forwards, but I just—kind of a rhetorical question down the line, down the road, just be aware that somebody might point fingers.

CHAIR: Well perhaps he can point fingers at us, as a reviewing agency and presumably the Mayor—has the Mayor been brought in on this discussion at all?

ASHIDA: No—

CHAIR: --is it appropriate, do you think?

ASHIDA: I don't see why—I mean, he is both our appointing authority. He's yours and mine. As a general rule, Mayor Kim tends to be very hands off on boards and commissions. He's very good in that way—he appoints and, even with departments, I can count on one hand the number of times he's been to my office, and it's normally to say merry Christmas. No, really—he's very good, he's very hands off. He lets the appointees really do their work.

CHAIR: Well you made the point, the salient point was that he does count on boards and commissions, us, as the watch dog.

KK: You know, with my skeptical kind of thinking, I thought that it might be passing the buck to us—oh, the Board of Ethics said it's okay, so it must be okay, but I'm just looking down the road. This kind of thinking might come up.

CHAIR: I'd like to ask the question, Mr. Kim, has this come up on Maui?

JDK: No.

CHAIR: Elsewhere? For any of the attorneys, has this come up elsewhere, been an issue in other counties?

ASHIDA: Well I can say that when I sought—you know, I looked for another attorney from the other counties, from the other counties to come here today, so I e-mailed my letter and what this is about to the other counties, and they all, all my counter-parts, said hey, let us know what comes out. It does—it will affect them, and I think that maybe for our office, we just had a reaction to the plea that the Chief Justice and Judge Ibarra made when they came down to Hilo that day, and so we sort of just picked it up from there. So, it may affect, it may affect what other counties do.

CHAIR: Well Karl, your concern was the *de minimis* time involved—in fact, here we are, getting a fax, BJ for example, and the corp counsel is working on something for Hilo High School PTSA or whatever, *pro bono* work and, because she cannot communicate with who she needs to communicate with at seven o'clock at night when she's working, I mean, she has to make some fax transmittal essentially, right. That's the concession. So, are we using government time and resources to do these extra-curricular activities, is that essentially it?

KK: I have a question, Mr. Ashida. I took Latin in high school, but I almost flunked, so *de minimis*, what does that mean, in legal terms?

CHAIR: Bare minimal.

KK: I really want to know what is *de minimis*.

ASHIDA: I don't know—I don't know—

KK: Minimum use?

ASHIDA: Minimum, yes, and if I may just comment on Mr. Williams, Chairman Williams' example he gave. Perhaps that's not the situation we had in mind because for something like, if you're working on your Hilo High School PTSA thing, or if I'm working on something on Kalaniana'ole School, what have you, to the extent possible I try to do that at home, on my own computer, my own resources. I'm talking about situations where, if for example I'm a CAAP arbitrator, the people involved in that arbitration aren't going to be available at night. They've _____ to have it heard during their regular work hours, so it's sort of us accommodating that, so we're not—we're still trying to do it on our own time, but what we're saying is that there will be times that we cannot help but that it be done during the regular work day, which falls within that, quote, County time. That's all we're saying. We're not

trying to look for a way to utilize County resources. We're saying that there are times when inevitably County resources and time will be necessarily infringed upon. That's what this is about.

CHAIR: Well the analogy, Wayne, with being a teacher was a good one, you know, I think the three of us have got experience in education as well. We've all done all this. My thinking is search your own souls, where you've been in the classroom in a school situation and done something that wasn't specifically germane to your lesson material, your classroom instruction, and there was, there were some spill-overs in that. I think if you maintain an ethical framework, an ethical approach, some _____, we have some checks and balances as well, the Board of Ethics _____ on this issue, I guess. There's a manageable—it's a manageable endeavor, and I personally feel like, I bow to the corp counsel audience to initiate this, to take this on, spearhead the effort for the other counties, and it seems to be—I think it's commendable, and I think indeed that the legal service, the legal profession, needs some more white hats, as it were, to go out there and set the example and do *pro bono* work for the indigent in the communities, so I—frankly, I have no problems with this, but I—we don't need—we can discuss this further in private or public.

KK: Well one more question, Mr. Ashida. You know, you are representing the Corp Counsel, but you were _____ before. Does this apply to the Prosecutor's Office too? Or are you just speaking for your—

ASHIDA: I can only speak for myself—

KK: Oh, okay—

CHAIR: --good question, though.

KK: Does it come up—the DA might come down some day and--

ASHIDA: --and I'm not suggesting that I'm speaking for the other counties as well. They were just curious what the outcome of this is. They may totally disagree with you. They may totally disagree with me. I can only speak for our house and what we do.

KK: But they fall under the same Moon mandate.

ASHIDA: You tell them that, I won't.

KK: No, I mean—

ASHIDA: --Yeah, yeah, we all do. As government attorneys, but still the jury's still not out on that question, because as I said, there are, there are—there is a faction of government attorneys on Oahu who vehemently oppose the imposition of the *pro bono* requirement on government—on government attorneys. And that may all come out one day that way. But all I'm saying is, for our office, we made a decision that this is something we want to do. Our decision in no way binds anyone other than ourselves.

CHAIR: Karl kind of opened up a Pandora's Box, there: What about other attorneys in government employment, I mean, we know that Mr. Yuen is the Planning Director, and the deputy are both attorneys. Are they subject to the same *pro bono* requirements?

ASHIDA: I don't know if their licenses are active. Bobby, do you know?

BJLT: No, I don't, but the *pro bono* requirement applies to active attorneys—

CHAIR: --oh, I see. In the profession, the legal profession.

BJLT: Yes, yes.

CHAIR: Can you actually park your license, as it were?

BJLT: Yes, you can and pay significantly less in your annual dues.

CHAIR: What do you think, Karl? Do you want to probe this more publicly, or waive—

KK: Did you want to have this sort of discussion?

WJ: Would this require a motion?

CHAIR: Well, yeah, the object of this is to render an informal advisory opinion, that's where we're headed.

WJ: Then I would like to hear the exact wording of the motion.

CHAIR: Well, why don't you—

WJ: --I would like to hear—

CHAIR: --I would like to hear it, too. Would somebody care to offer some exact words? I believe counsel can help us on this issue.

JDK: I believe the motion would be worded in the Board of Ethics—move the the Board of Ethics to find that the *pro bono* work proposed by the Office of the Corporation Counsel, Lincoln Ashida, in doing the—it's not required, it's suggested *pro bono* work under Rule 6(1) of the Rules of Professional Conduct, and as described by Mr. Ashida as being *de minimis* and therefore not a waste of or use of County property—

CHAIR: --or in violation of the rule of—

JDK: --violation of Section 2-83, Fair Treatment _____.

CHAIR: Let's see if we can distill that down to a new summary, help us—let's see if we can give that a moment. Are you tracking this?

JDK: Yes, I am.

CHAIR: Do you—did you get enough information here to make such a motion, or do you want to wait for more questions, or express concerns?

WJ: I think the wording of the motion is extremely important—

CHAIR: --key, yeah. We need a moment to organize the wording. How about—can you just draft up a succinct statement of that?

JDK: I am trying at this point.

CHAIR: We're going to let you earn your money. We really appreciate your being here. While he's doing that, counsel is seeking to draft a summary statement, a motion that we can propose and vote on. Other issues? Other questions?

KK: Yes, you mentioned the fact that there are groups, like in Honolulu, the Honolulu Corporation Counsel, they're violently, or vehemently, opposed to—

ASHIDA: --No, no, I'm not suggesting that at all. It's something from membership in the Hawai'i State Bar Association. Some of their members, who happen to be government attorneys, have expressed significant opposition to government attorneys being included in this definition, and I would also state those attorneys I'm speaking about

who were expressing their opposition are not county attorneys, they're state attorneys.

CHAIR: What about private practice, what's the buzz in the private practice world, have you heard of that? It becomes an academic issue, really, if your private practice—if you're doing your work probably on their, in their facility.

ASHIDA: Right, and they don't have this same concern that we do, because they have their—and they use their staff. And it's no problem. But for us, we don't envision ever touching our civil service staff, you know, this is something we do wholly on our own. We recognize that. So the private guys—and it varies, some attorneys, they—a friend of mine, Eric Kobayashi, used to practice in Kona. He won an award last month for *pro bono* service. So, it depends on the person, you know, if they're willing to contribute.

CHAIR: Do we hear from BJ? Do I get Bobby Jean's input on this? I mean, you're certainly free to chime in.

ASHIDA: She's turning her light off. She's not _____.

BJLT: I did go and do a search of other jurisdictions, and we did find precedent in other states who have addressed the issue, and determined that for government attorneys, *de minimis* use of—that's just like, you get a phone call, someone sends you a fax, maybe the mail arrives at your office. That kind of stuff was not a problem, in particular if there is a government policy of trying to provide legal services to the poor or of providing services to the under-privileged.

CHAIR: Which Judge Moon, the attorney—sorry, Chief Justice Moon, has provided that rule, has he?

ASHIDA: No, what he's talking about is if your local government here, _____ government, has laws, ordinances, or otherwise, which provides for the government responsibility for the care of the indigent.

BJLT: Well, it's a little bit broader than that. It's two steps, the way I looked at it. One, we have direction from our State Judiciary, saying that we're supposed to provide services to the indigent. We also have a State Legislature that funds services to the indigent. We have a legal system that says you have to provide services to the indigent. On the County level, while the County has not specifically targeted money for legal services, we have all kinds of programs that try to take care of people—

affordable housing—it's part of our County ordinances. We have programs where we give extra credit for—I guess we can't, you know, we have some things where we have programs that the County has established to provide charitable services. We participated—we would participate in Food Bank as a County. And those are done all on County time, with civil servants, those fund-raising activities and blood drive. There are a lot of charitable services, and the Food Bank is the one that I think particularly goes to the indigent, and those are done throughout the County. Fire fighters do the collection of that, so I think that there's definitely a policy that the County has embraced, and that the Mayor has embraced, that we do care about the indigent and that—

CHAIR: --and community based organizations—

BJLT: --and community based organizations, and we also give money. We have \$900,000 a year that we give out to community based organizations. So, you know, I think that when you're looking at that umbrella of—where there's a policy of reaching out to the indigent—I think it's clear that it's embraced and it's consistent with the County, and I do want to make a point that when it's stuff like the Food Bank, the entire County participates in that, on County time.

CHAIR: And they have no council resolution which specifically calls for that, actually, you know, or law, so no enabling legislation *per se*, then, really.

BJLT: No, it's just something that—it's something that, you know, has come down saying that these services reach out to the community, it reaches out to the poorest, and we embrace it, and we—we collect food on County time, we set up collection stations, we set up at fire departments as collection points for Food Bank, and so I think that we've embraced that concept that we are supposed to reach out, and that as the County, we're supposed to be a part of—

CHAIR: --_____.

WJ: Oh, I have no problem. I admire what you're going. I—I just, the wording needs to be proper, and I think we should all give back to the community in one way or another. And it's admirable.

KK: I was just thinking, if I may have the legal counsel's opinion on it. This is a small town, we all know each other, and I just happen to know quite a bit of guys on the Corporation Counsel, who were my former students—Torigoe, and Patsy, and all that, including the lady there.

CHAIR: BJ.

KK: Is it okay for me to, you know, and I will try my best—on these cases where a conflict may seem to arise, I'll try to explain my background first, but I tried to vote as fairly as I could, and deliberate as fairly as I could—but—do you see any conflict, Ms. Leithead?

BJLT: No, I don't, and we, in our discussions, discussed that where there was a potential for conflict, that we would not participate. In other words, if there was—that's why we're not going to be involved in direct legal representation of a client, so to speak. We're not going to go to court for somebody, because of that potential that perhaps that could grow into a conflict. So the kinds of things that we're talking about or doing is the free legal clinics, where we're giving general information, like you have a question about landlord-tenant codes, so we give you general information, but we're not going to represent you as a client.

KK: No, that's not what I meant. What I meant was, being that I am familiar—

BJLT: --Oh, with us, no—

KK: --you know, would that influence _____, because I know—

BJLT: --not unless you're financially involved with us—

KK: --case in point, one of my first cases when I was on the Board of Ethics about three, four, three years ago, four years ago, the people who were testifying, and Corporation Counsel, and everything were all my former students, and I made it known to the client the situation, and he said well, no problem, as long as you can render a fair judgment, and the judgment went against the person. He wrote a letter to us saying, I want Kawahara off the Board. He wanted a hearing again, with me off the thing.

ASHIDA: Mr. Kawahara, if I may, that's probably a question you should direct to Mr. Kim. My thinking on it is, you're not being called upon to assess our credibility in any way. What is, is, and you know, I don't think my credibility, BJ's credibility, or Ivan's—always Takase's, though. Skip _____. But I don't think that really matters, because, again, you're not being called upon to judge either our character or our credibility, or what have you, but I think maybe that question should be directed to Mr. Kim.

JDK: The law recognizes that, you know, in any community, a community that is so small, you cannot get away from not knowing personally a party that may come before you. Therefore, your recusal of participating in any issue is a personal one, and so if you recuse yourself because you would feel uncomfortable in seeing the parties in a different setting, then that's fine. But if you're the type of person who says, look, I've been appointed to do a job and I will do it to the best of my ability in conformance with the law and the facts presented to me, and I let the chips fall where they may, and I can make up my own mind.

KK: Thank you.

JDK: Okay, the proposal for the motion I've come up is, whether or not someone would move that the Office of the Corporation Counsel of Hawai'i County, in fulfilling an attorney's responsibilities outlined in Rule 6.1 of the Hawai'i Rules of Professional Conduct, *pro bono* services, that the corporation counsel's and the deputy corporation counsels' *de minimis* use of Hawai'i County property and equipment does not violate the Hawai'i County Code of Ethics.

CHAIR: And this is a prelude to say that we're looking to, we're seeking to render an informal advisory opinion and that would be our motion, if someone would care to offer it.

JDK: Yeah, I suggested that as the motion.

KI: I move for the acceptance.

CHAIR: So moved? So moved.

WJ: Second.

CHAIR: Any discussion, any further discussion? I'd like to call for a vote on this. All in favor of the motion, say aye.

KI: Aye.

WJ: Aye.

KK: Aye.

CHAIR: Any recusals? Any nays? Three votes aye. The ayes have it. Thank you very much.

JDK: You want—excuse me, do you need an interim ruling, or an advisory opinion?

CHAIR: An informal advisory opinion _____.

JDK: An informal advisory opinion, in accordance with the rules.

BJLT: We draft it, and they adopt it formally at the next meeting.

JDK: Yeah, okay.

BJLT: You won't need to be here, we just need it, we need it in writing.

JDK: I wouldn't mind flying back.

CHAIR: And maybe there's a job forthcoming.

JDK: My wife would not allow me to move to this island. According to Mayor Kim, in the last arbitration hearing, not only the biggest county, but the most beautiful county.

KK: Are you related to him?

JDK: No relation.

BJLT: Not related to Bob Kim, either.

JDK: No.

CHAIR: There's so many Kims. Moving right along.

KK: Just one thing. I'd like to state in the public—for the public record, that we'd like to thank—what's your name there?

JDK: John Kim.

KK: John Kim, from Maui, for taking his time to be here with us to help us resolve this matter.

JDK: Thank you.

CHAIR: Duly noted and seconded. I don't think we need to vote on that. We certainly appreciate that, and we appreciate the Corp Counsel's initiative in _____ this whole matter. We can make quick work of

the financial disclosure of Mr. Rudolph Hart and then finish that business before we then next turn to the patient Ms. Lively. Oh, Item c, review of disclosure of financial interest statement filed pursuant to Section 2-91 by Mr. Rudolph Hart. Mary, do you have that? Is this the new one? This is a new one, right. We just need Mr. Hart at this point, just Mr. Hart. Yeah, and then I think that's a new one. And then we'll move back into Unfinished Business and get into the—and put Barbara Lively at the end of the agenda. Okay, thanks. Just Mr. Hart alone, the rest of these will come back later. Oh, my goodness. Is this the long form? It looks like we have a long form attached to this, with a statement that says, with a short form update. Where are—is this the original one? You see we have a short form. My goodness. We have a procedural issue, the short form, long form business where we're not—we're still fooling with that.

BJLT: Yeah, that's still before the County Council.

CHAIR: Ah, okay. So Mary, upon completion of this, we'll complete the Unfinished—I mean, then we'll complete the New Business and then we'll need to turn back to the Unfinished Business, and I'm going to propose Ms. Lively at the end of that. If you were doing—Wayne, if you were doing Fire—Wayne if you had a little sideline business, doing fire inspections and so on, that should be a _____. Okay, we've reviewed the statement of Mr. Rudy Hart, the Fire Commission, and next we'll proceed to Unfinished Business, Item 5. We've completed New Business, we've completed Unfinished Business, and so if it pleases the Board I propose that we take Petition No. 2005-01, Barbara Lively, council aide for Bob Jacobson, and put that ahead of this agenda.

MC: Excuse me. Can you vote to accept Mr. Hart?

CHAIR: I'm sorry, thank you. What would I do without her? Bobby Jean, what're you doing in action? You should be catching me in that. I'd like to have a motion to accept and file the motion—the financial disclosure statement for Mr. Rudolph Hart. Is there a motion, is there a motion to that effect, to accept and file?

WJ: I'll make that motion.

CHAIR: Second?

KI: Second.

CHAIR: All in favor?

WJ: Aye.
KI: Aye.
KK: Aye.

CHAIR: The Chair votes aye. It's filed. Now we return to Unfinished Business, Item 5—petition—number c, Petition No. 2005-01. Barbara, would you approach, please, and keep in mind we have two members who are new and they've read the minutes of the last meeting, so you maybe want to repackage this all for their sake, and mine.

LIVELY: Thank you for hearing my petition. I have a couple of updates in my situation, that I should probably go ahead and start with. Number one, when I was here last, I had mentioned that I was going to be applying for the, a position with the Legislative Auditor, which I will be now withdrawing that application, and also, the contract that I have with the County Resource Center has been extended through June—it was originally scheduled to end next month. And just in a nutshell, my situation is that I am a council aide for Bob Jacobson, and I'm also under two different contracts with the Hawai'i County Resource Center to provide facilitation for community meetings and different events, whatever they need.

CHAIR: Is that after hours?

LIVELY: Yes, most of it is—

CHAIR: --all after-hour work—

LIVELY: --after hours and on the weekend. However, there are a few commitments that I have that take me away from the office, which I take time off to provide those services. It isn't regular by any means, and so that's pretty much the situation. There are a few times where people find me at the County office, and there are some times that phone calls come in and I, you know, refer to them later in the evening. I have computers and space available in the Resource Center for organizing meetings for _____ work in that office. I have occasion to meet with community people, you know, to strategize meetings or whatever have you, and I _____, of course taking the time off at the County office. So that's pretty much it. I'm not making a million dollars here. It started out as volunteer work, and when the funding is through, I will continue to do it on a volunteer basis.

CHAIR: The last time we had an issue, because one time you were using a County van, right, to go to Pahala and so forth, so it's—at what point does the County Council aide job stop and at what point does your private contract, you know, moonlighting begin, as it were, and what use of government facilities is involved in that. Now, you mentioned that Dixie, or who exercises supervision over you, other than Bob Jacobson?

LIVELY: For the Resource Center it's Jane Testa, she's—

CHAIR: --at R and D. But your full-time job is as an aide to Bob Jacobson, so who is—is there an office manager there?

LIVELY: Yes, there is. The office manager is Alfred Robello, and the Chair, the Council Chair, from my understanding, is the kind of over all boss of all of us, and of course now that's Stacey Higa, and I do actually provide facilitation for some members in his district outside of my Council position as a resource facilitator.

CHAIR: So when the van news came up, there was someone else, was it—who is the—

LIVELY: --okay, the situation with the van was that there was a Planning Commission meeting that Bob was unable to attend and he sent me to, and that was in Pahala. After that Pahala meeting, I had a community facilitation job—

CHAIR: --coincidentally—

LIVELY: --later that night, right, for—that I attended for Gary Safarik. But, I would also, originally was mandated to go for my Resource Center obligations, or whatever happens. So the first meeting, which I did use the County van, I attended for the County Council. The second was actually for the Resource Center job, but there was no way for me to get the van back here and then get my private car, and then so I ended up in which I had planned to take the County vehicle home for the evening and bring it back the next morning, anyway.

CHAIR: I presume you did not file for mileage from that.

LIVELY: No, no.

KK: You know, I'm reading in the transcripts—you are what in relation to Bob Jacobson?

LIVELY: I'm just his council aide.

KK: Council aide.

LIVELY: We answer the phones, schedule his appointments—

KK: --yeah, well you know, the thing, Bobby Jean and myself, we were legislative assistants at one time. You were—

BJLT: --I was the legislative auditor.

KK: Legislative auditor. And I was the legislative assistant, working under the legislative auditor, Harry Takahashi, and—but this it didn't have at that time. This is a new creation, that you are the aide for him?

LIVELY: I'm really not too sure about that. I do know that my position is what they consider an at-will position so that I have—

KK: --You're paid by whom?

LIVELY: I'm paid by the County but I'm hired as directed by the Council member himself, and I pretty much work at his beck and call.

KK: The other council people have aides?

LIVELY: They all have aides like myself.

CHAIR: And they're all exempt civil service.

KK: When we used to work for the legislative auditor, we answered to the legislative auditor, but we helped—you know, each of us was assigned to certain council persons, but not directly known as the person's aide. This must be a new—is this a new—

BJLT: --Alfred is comparable to the position Elaine Ludloff had.

KK: Oh, okay.

BJLT: He supervises the clerical staff, and the aides are basically comparable to a clerical staff. They handle the mail, the phone calls, minor typing, maybe a little bit of drafting of simple letters and stuff for the council members. Some council members also use them to cover community meetings. They are not paid overtime, but they do usually work a 7:45

to 4:30 day, and then if—I believe the office policy is that if they have to work in the evenings, that they give them either comp or flex time, where they try to adjust it, but they were not, and I do not think that they currently get any overtime, because they don't have a budget for overtime.

CHAIR: And the travel, do they get travel?

BJLT: They get travel if they get—they get *per diem* if they stay overnight somewhere on Council business. They can get, apply for mileage, if they have to on the job drive somewhere and use their personal vehicle.

KK: It's not the same as the legislative assistant?

BJLT: No, the legislative assistants do more of the research and drafting of requests that may have come in from constituents, and you have to do research on legal issues related to the constituent's request.

CHAIR: So does Bob Jacobson have a legislative assistant as well?

LIVELY: I believe he does.

CHAIR: Yeah. And do you work with—under the supervision of that person—

LIVELY: Well it's pretty much like Bobby Jean said. It his job to work on the legislation, so you know, we don't really—

CHAIR; --you don't really—

LIVELY: --we don't really. He does come to me for help from _____, but no, as a general routine we don't.

CHAIR: Well, it's important we understand this arrangement. It's a pretty strange match of arrangements.

LIVELY: I don't even understand it.

CHAIR: Yeah, and we're trying to figure out like—well, that Bob Jacobson is the supervisor, and she's the employee, you know, he certainly should have his share in the responsibility for ensuring that this arrangement works in a non-conflicting sort of way, and we wanted to see—we asked you to come back in with the work, the full contract, which you brought in, and also the job description she brought in. So, armed with that.

BJLT: Mr. Williams, I think the real issue is whether she's being paid for her job as an aide and whether she separates the work she does under the contracts, so that she is not getting paid as an aide during working hours and doing the work for the contracts, and as long as there's that separation, that she's either taking time off from her council aide job to do the contract work, or is doing the contract work after hours in the evening and away from the County Building, I don't think there's a problem. I don't have the contract in front of me, but if she's being contracted to do work for the County, then you know, I think the real issue is whether there's double-dipping, as opposed to whether there's a use of resource and stuff, because her contract is with the County to do work—

CHAIR: --double-dipping, and who regulates that, who's the one—

LIVELY: --I do—

CHAIR: --she's certainly a self-starter and has a reason to be coming here. Who really regulates well, time out from this job, I'll do that job, you know. Who's—what's the checks and balances in the system? It's more of a systemic problem that I'm thinking here.

BJLT: Well, she isn't in an office by herself. She is in an office that's open to the public. Where she works is visible to her co-workers, for that matter, and if you're not physically familiar with the Council staff, the way the desks are arranged, you can actually overhear each other's phone calls. So it's very difficult to do anything without anyone else knowing what you're doing in that office. You're also visible to members of the public and visible to members of the civil service staff, because it's right in the clerk's office. Members of the public come in, and Ms. Lively's desk I think is either the first or second desk right next to the counter where the public comes in. She's also—Mr. Robello is also there during the daytime hours and is ostensibly the supervisor of those positions, and if she wants to leave work she has to notify him. I'm supplying this because I am familiar with the way the office operates, but I think Ms. Lively can correct me if I'm wrong about that—she did mention that Mr. Robello is your supervisor, and my recollection is that if you're putting in for time off, vacation, all of those things have to go through Mr. Robello.

LIVELY: _____, and thank you, Bobby Jean, for mentioning that my desk is right at the front as you enter, and so I do have—very frequently people will come in that know me, you know, from the other work, and will greet me and, so to be totally honest, there may be a few minutes of

discussion about the other—whatever situation is going on. They come in, I'm the first one in line, _____ whatever happens, I don't try to engage people for too long because like Bobby Jean said, there are, you know, people in the office, there are things that I need to be doing, so I try to be cognizant of that.

CHAIR: So is the fact that you're holding this sideline contract an issue with your contemporaries and your colleagues?

LIVELY: I don't believe so, I don't believe so. I've kept in mind _____ service to all the other council members, and I've been able to provide to some of them on occasion, _____, and I don't feel like the other office staff has any problems with anything that I'm doing.

CHAIR: In Mr. Robello's absence, is there someone who steps in for him?

LIVELY: Connie—the County Clerk is always there.

CHAIR: Oh, Connie's also always there.

LIVELY: I also view her as a supervisor.

CHAIR: Yeah, I think she was involved in that van transportation thing, and I really zeroed in on that, Connie Kiriu.

LIVELY: Yes, and I do, for your clarification, I _____ the contract with the Resource Center, I receive \$550 stipend per month, and I receive a \$100 mileage reimbursement.

CHAIR: Up to \$100, you automatically get it?

LIVELY: It's a flat rate.

CHAIR: Okay, you just get \$100 for travel. And who do you submit those records—that documentation to?

LIVELY: Excuse me?

CHAIR: And who do you submit that documentation to?

LIVELY: Oh, to the Resource Center, the coordinator there, Debbie Chang.

CHAIR: Wow, you've got a lot of bosses. What do you think?

KK: Did you say, I think it was in the minutes, something that you had applied for the legislative auditor's job and now that you withdrew that?

LIVELY: I'll be withdrawing that application today.

KK: The legislative auditors, not the legislative assistant—

LIVELY: No, it was an assistant.

KK: Assistant, assistant's job.

LIVELY: _____.

CHAIR: The contract expires in June, is due for renewal, or it could be renewed?

LIVELY: I do not think so. They were _____ on the County Council to find a coordinator's position _____, but not the facilitators individually _____. Currently we are funded by a grant _____. So that, too, may be of interest to you newcomers, that that work that I provide is directly related to drugs and to drug issues.

CHAIR: And the grant person who wrote that is, yet another player?

LIVELY: I believe it's probably the first original boss, the coordinator _____, Louise Winn.

CHAIR: And so she's the project manager for that grant now?

LIVELY: Well, I believe she at least assisted in writing the original grant proposal.

CHAIR: Who manages the grant?

LIVELY: I believe Jane Testa, of Research and Development.

CHAIR: --Jane, yeah, she probably _____.

LIVELY: _____.

CHAIR: Wow. Do we have more discussion, questions? To discuss among yourselves with counsel? Do we know enough about this to make an informal advisory opinion? We have room for—we can get a motion on the floor, and we can have further discussion. I don't mean to be

ramrodding this, but I think we do—we've probed this. I guess we resort to these *ad hoc* arrangements of necessity. _____ what goes on. But we do have a person who came here of her own volition, basically to make sure that this was all above board.

KK: Maybe we need your help, Bobby Jean.

BJLT: I think that you could make a motion, if I understand it correctly, that as Ms. Lively has described her contract and her work situation—

CHAIR: --and as we have reviewed them—

BJLT: --that the Board makes a motion to find that there is no conflict of interest with her County employment.

CHAIR: And/or contractual work.

BJLT: Yeah, that there's no conflict between the contract with the County and her work as a council aide.

CHAIR: Are you comfortable with that motion?

KK: Yeah, I move, so move according to the corporation counsel—

CHAIR: --is there a second?

KI: Second.

CHAIR: Is there any further discussion? All in favor vote aye.

KK: Aye.

KI: Aye.

CHAIR: The Chair votes aye.

BJLT: I just wanted to clarify, because I thought I saw maybe a thinking process there that, a finding of no conflict, that inherent in that finding is that she continues to do it as described in that she separates the council aide work from her work on the contract, so that she's not being paid twice for the same work.

CHAIR: And that's a good clarification.

BJLT: And that's understood in that—because those are the rules. But as she has described it, she separates it, there's no conflict.

CHAIR: So that if it changes—

BJLT: --if it would change, it would always be subject to somebody raising the question that hey, she was, you know, using the County van all the time and she was collecting mileage, or she was doing all the work during council aide time so she was getting paid twice, someone always can raise that issue, despite the finding that, as she described it, you found no conflict.

CHAIR: Thanks, that's a good clarification. We want to add that to the motion, _____.

KK: I think that's implicit.

BJLT: Yeah, it's implicit, but I just saw that question in your mind about what happens in the future, what if there's—yeah.

CHAIR: So we voted on that issue, and we all voted aye.

WJ: I didn't vote, but now I will vote aye.

CHAIR: I'm sorry, so we again call a vote. All in favor of the motion as amended and clarified, please vote.

KK: Aye.
KI: Aye.
WJ: Aye.

CHAIR: The Chair votes aye. It's unanimous, the motion's passed, no conflict of interest. So come visit it again some time, if new contracts come your way.

LIVELY: Thank you very much.

CHAIR: Thanks for your patience. Well, moving right along. In the Unfinished Business agenda, we have status of Bill 1548 in the legislature, item a.

BJLT: The bill is dead.

CHAIR: Good. That was that, no further need to discuss that. It was a strange bill. It was going to somehow take the mayor out of _____ boards

and commissions, and it was going to give us some higher authority. The Pope is dead, the bill is dead, I don't know. Then on to item b, review of disclosure of financial disclosure interest statements filed pursuant, and we have two outstanding, Carl Dionne and Spike Werner. I believe we were missing items, and we wanted to clarify those—I think by phone calls, she did it by phone. So they're now straight, oh yeah, this telephone number, we've got that.

KK: May I be excused from the meeting subject—

CHAIR: Yeah, all right, we have a quorum, we can proceed without you, Karl. We appreciate your time. _____.

KK: You know, can I mention that—for whatever it's worth, I'll be on the Oregon Trail on May 11—

CHAIR: --okay, so bon voyage—

KK: --if it's any way possible, or can be done, if you can bring it one week—

CHAIR: --you want to move the meeting to Oregon?

MC: Are you going to vote on the vice chair?

BJLT: Oh, are you going to vote for a vice chair? You need to—

CHAIR: Ah yes. Before you go—

BJLT: --first you need a motion to amend the agenda.

KI: I move that we amend the agenda.

CHAIR: Second?

BJLT: To vote—

KI: --to vote for a vice chair at this time.

WJ: I'll second.

CHAIR: Okay. Votes?

KI: Aye.

WJ: Aye.

KK: Aye.

CHAIR: Any opposition? Okay, next we need a motion to—

KI: --I move that we nominate Karl Kawahara to be vice chair.

CHAIR: I second, by virtue of his seasoning, experience, and temperament. Any further discussion? Can we vote on that? Mr. Kawahara, are you ready, willing, and able, except in May, of course?

KK: Yeah, it's okay. I'll very reluctantly accept. I think Kerry is supposed to be next in line—

CHAIR: --he wants to understudy you for awhile.

KK: Let the record show that I was advised not to die, or be away, you know, for a long time. Take care of your health.

BJLT: You still need to vote on the nomination.

CHAIR: So we want to vote on the nomination. All those in favor of Mr. Kawahara as the vice chair, vote aye.

KI: Aye.

WJ: Aye.

KK: Aye.

KK: But if you can possibly change the date of this next meeting.

CHAIR: When do you return?

KK: I'm leaving on the fifth—

CHAIR: Returning back?

KK: On the 17th.

CHAIR: We can do that, I think. We've done it once, we can—can we do it the third Wednesday, does that take us to the third Wednesday in May? You return on the 17th, which is what day?

KK: I think it's a Friday.

CHAIR: You've got a weekend to recover, and when's the following Wednesday?

KI: In the back of you—

BJLT: --Right behind you, Paulette.

MC: May 18 is the third Wednesday.

KK: May 18. Well, if the order of business, whatever, if it's possible to change it. I'll probably be jet-lagged out. I'll have my body here.

CHAIR: You'll be so mellow, you know, meandering through the trail, Lewis and Clark trail.

KK: Thank you, guys.

CHAIR: Good bye. Okay, returning to financial disclosure forms. Happy that we have a vice chair. So when I take off to New Zealand in January—are there two of them here, no just one. Bobby Jean, what's going on with the long form—

BJLT: County Council I think still has the bill in front of them.

CHAIR: Yeah, and Wayne, for your information, there's a long form and a short form, and we said no. Change the law, we want one long form. People would just write on a piece of paper and say, no changes, to something that had been done in 1997, so we said wait a minute now, you know, we don't have that document, or—so we just said it's too much of a hassle, but you know, when you do a financial disclosure form, we all do them, you know, you do them what, once a year?

BJLT: Once a year.

CHAIR: Once a year we do a financial disclosure form. You sit down and take stock of what's going on and lay it out there, so we've succeeded in doing that, assuming the Council will vote on it. So we're still wading through the short form, long form things. Oh my God, we still have to go through Executive Session. Okay, these were missing information which she filled in telephonically, phone number in one, and something else. Nothing necessarily germane. Poor Mary had to look at hours at this stuff. Okay, are we ready?

BJLT: I think you realized at the last meeting that Mary is training to take over.

CHAIR: Oh, yeah. She's doing a great job. It's just the technology.

BJLT: Okay, we have some, that's one of the things—you know, that might be something that we should talk to Lincoln about, getting new equipment, because—

CHAIR: --yeah, this is ridiculous. Stone Age kind. Okay, we're back in business, technologically, and we've just reviewed the forms of Carl Dionne and Spike Werner, and is there a motion to accept and file?

KI: I move that we accept and file.

WJ: Second.

CHAIR: Okay, all in favor?

KI: Aye.

WJ: Aye.

CHAIR: The Chair votes aye. Next item, next item actually on Unfinished Business was already addressed. We've completed Unfinished Business and we now need to move to complete the New Business. We now need to move into Executive Session. Do we have a motion to move into Executive Session?

KI: So moved.

CHAIR: Any second?

WJ: Second.

CHAIR: Aye.

KI: Aye.

WJ: Aye.

(Concluded Regular Session at 11:35 a.m.)

Respectfully submitted,

Mary E. Crosson, Secretary

NOTE: Blank lines indicate inaudible words or voices on audio tape recording.