

HAWAI'I COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

Wednesday, November 8, 2006 – 10:00 a.m.
Corporation Counsel, Hilo Lagoon Centre
101 Aupuni Street, Suite 325
Hilo, Hawai'i 96720

Present: Reeve Williams, Chair
Wayne Joseph, Vice Chair
Kerry Inouye, Member
Ann Lum, Member
Kendall Sharpless, Member

Also present: Bobby Jean Leithead-Todd, Deputy Corporation Counsel
Karen Delimont, Secretary

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1. CALL TO ORDER

The Chair called the meeting to order at 10:00 a.m.

2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

There were no members of the public present.

3. APPROVAL OF MINUTES

October 11, 2006 Regular Session: Mr. Joseph moved to accept and file the minutes; Ms. Lum seconded the motion; all members voted aye, motion carried.

October 11, 2006, Executive Session: Mr. Joseph moved to accept and file the minutes; Ms. Lum seconded the motion; all other members voted aye, motion carried.

4. COMMUNICATIONS

a. Communication No. 2006-102: The High Road No. 2006-3 for October 2006. Mr. Inouye moved to accept and file; Mr. Joseph seconded the motion; all members voted aye, motion carried.

5. NEW BUSINESS

Review the of Board of Ethics rules of Practice and Procedure and their role in the recordation, review, and compliance for the filing of Financial Disclosures by County employees or officials.

The secretary for the Board of Ethics has created a database that will track the filing of disclosures by committee members. Previously the filing of disclosures was not being tracked. It was proposed that a form letter be composed to remind members that failure to file disclosures is a direct violation of the Ethics Code. Chair suggested that the letter be sent to the member via the board secretary. The chair of the individual boards may need to take a more active role in encouraging members to file disclosures. If the members fail to comply they may be dismissed from the board.

Motion and Vote: Mr. Joseph made a motion that Corporation Counsel initiate letters to remind everyone of their requirement to fill out a financial disclosure form. Mr. Inouye seconded the motion; all members voted aye, motion carried.

6. UNFINISHED BUSINESS

a. Review of draft letter to County Council requesting an ordinance to authorize the Board of Ethics to impose fines on employees or elected officials for the violation of the Ethics Code.

Motion and Vote: Mr. Joseph made a motion to accept and to pass the letter to the chairman for signature with the changes as discussed. Mr. Inouye seconded the motion; all members voted aye, motion carried.

b. Review of draft letter to County Council recommending that the Council adopt a rule setting a time limit on use of their discretionary funds to send out mailings and legislative summaries in an election year to avoid the appearance of using their position to get an inappropriate advantage.

Motion and Vote: Mr. Joseph made the motion to accept with those changes--that we recommend six months prior to the primary--and after the change has been made that the chair signs. Mr. Inouye seconded the motion; all members voted aye, motion carried.

c. Result of research regarding the Revision of County Code to eliminate the need to include personal residence on the Financial Form.

Ms. Lum said that the State has already eliminated personal residence from their disclosure, but she didn't research the legality of the issue. The State was trying to limit the amount of personal information disclosed for people serving on boards and commissions. She assumed that we were going to eliminate the personal residence from our form and recommended that we do so because from a privacy stand point she doesn't see any reason to disclose personal property. Board members could state the value, but not the TMK or address,

but in a previous discussion it was stated that the cost is not what we are looking for. She recommended that we exempt personal residency from three sections of the financial disclosure form; Item 5, Item 6, and Item 7. The County Code, Section 291.1(C) 5 would need to be change to say that you are not required to disclosure property that is your personal residence.

Ms. Leithead-Todd said that people have concerns about stalking, restraining orders, identity theft, and robbery. There is no longer free access to Real Property Records online unless you are a government entity. There is a move to protect private issues and protect personal property information from the public.

The purpose of the disclosure is to look for conflicts of interest, not personal property ownership. Ms. Lum would also like to see “within the County of Hawai‘i” removed from Section 2.91.1(c). Ms. Lum said that she feels that any investment, whether in Hawai‘i County or outside of Hawai‘i County should be stated. The disclosure form is confidential and the information is protected and never released to the public.

Ms. Lum suggested three items be changed in the County Code: The financial code amount; eliminate the need to disclose personal residence; and the phrase “property located in the County of Hawai‘i.”

Chair reiterated that the issue is whether personal residence should be disclosed on the Financial Disclosure Form.

Ms. Lum put a motion to the floor that we ask the County Council to amend the Code of Ethics section 291.1(c)5 to add that you are not required to disclose personal property held that is your personal residence. Ms. Kendall seconded the motion.

Mr. Joseph said he still was not convinced that it was necessary to make a change to the code as this is a confidential financial form and he was worried about repercussions that we might be overlooking by making such a change.

Ms. Leithead-Todd said that one of the reasons you may need that information is to check on someone’s district requirements. This information is screened by the County Council. With elected officials it is made public in case there is a dispute as to whether someone is actually living where they claim to reside.

Ms. Lum rescinded her previous motion and asked that there be further discussion, Ms. Sharpless rescinded her second. The Board decided to table the personal property issue to an unspecified later date, but wanted to pursue the updating of the two remaining items of concern; the dollar amount code and the wording “located in the County of Hawai‘i.”

Motion and Vote: Ms. Lum moved that we ask the County Council to amend the Code, Section 291.1(C)5, to remove the wording “located in the County of Hawai‘i” from that section, and to change Section 291.1(C)8 to update the dollar amount code to reflect a more realistic dollar amount; Ms. Kendall seconded the motion, all members voted aye, motion carried.

d. Review of State Ethics Code Handout.

The question posed to the Board was whether they wanted to create an Ethics checklist and Ethics Guide similar to the State Ethics Checklist Handout that could be given to new Hawai'i County employees, board and commission members, and elected officials. The County does not currently have an official ethics guide handout. The Board agreed that this would be a very proactive stance.

Motion and Vote: Ms. Sharpless moved to have the Ethics Guide for elected officials, employees, and members of boards and commissions written by the State Ethics Commission and the checklist, written by the State Ethics Commission be adopted and modified for Hawai'i County. Ms. Lum seconded the motion. All members voted aye, motion carried.

Ms. Leithead-Todd will prepare a draft for the Board's review.

e. Financial Disclosure Subcommittee Report.

Ms. Lum presented her revised detailed instructions and revised Financial Disclosure Form. The first change was the addition of "Confidential" to the title of the disclosure form. The next change was the addition of "Review Request (if any)." The "Identification Section" of the detailed instructions says "If you want your form reviewed in Closed Session rather than Open Session of the Board of Ethics Meeting write *Closed Session* in the Review Request box." Mr. Joseph suggested that because this is a confidential form why not review all disclosures during executive session. Rule 8 says nothing about the way in which disclosures must be reviewed and there is no reason why all disclosures cannot be reviewed during Executive Session.

Motion and Vote: Ms. Lum moved that we review all financial disclosure forms in Executive Session; Ms. Kendall seconded the motion; all members voted aye, motion carried.

Motion and Vote: Mr. Joseph moved that at the next meeting we will review the final version of the Financial Disclosure Form; Ms. Sharpless seconded the motion; all members voted aye, motion carried.

Board secretary will finalize the Financial Disclosure Form and the detailed instructions and will present it to the Board for final approval at the next Board meeting.

7. EXECUTIVE SESSION

Motion and Vote: Mr. Joseph made a motion to move into Executive Session; Mr. Inouye seconded, all members voted aye.

The Board moved into Executive Session at 11:00 a.m. and re-entered Regular Session at 11:25 a.m., at which time the Chair announced that the Board had reviewed the financial disclosure of Andrew Shizuo Iwashita.

Motion and Vote: Mr. Inouye moved to accept and file the financial disclosures of Andrew Shizuo Iwashita and to return to Regular Session; Mr. Joseph seconded the motion; all members voted aye; motion carried.

8. ANNOUNCEMENT

The next regular monthly meeting is scheduled for Wednesday, December 13, 2006 at 10:00 a.m. at Liquor Department Conference Room, Hilo Lagoon Centre, 101 Aupuni St., Suite 230, Hilo, Hawai'i 96720.

9. ADJOURNMENT

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

The meeting adjourned at 11:30 a.m.

Respectfully submitted:

Karen Delimont, Secretary