

**HAWAI'I COUNTY BOARD OF ETHICS**

**MINUTES – REGULAR SESSION**

Wednesday, December 13, 2006 – 10:00 a.m.  
Liquor Control Conference Room, Hilo Lagoon Centre  
101 Aupuni Street, Suite 230  
Hilo, Hawai'i 96720

**Present:** Wayne Joseph, Vice Chair (WJ)  
Ann Lum, Member (AL)  
Kendall Sharpless, Member (KS)

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

**Absent:** Reeve Williams, Chair  
Kerry Inouye, Member

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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**

**November 8, 2006 Regular Session:** Ms. Lum moved to accept and file the minutes;  
Ms. Sharpless seconded the motion; all members voted aye, motion carried.

**November 8, 2006 Executive Session:** Ms. Lum moved to accept and file the minutes;  
Ms. Sharpless seconded the motion; all members voted aye, motion carried.

**4. COMMUNICATIONS**

**a. Communication No. 2006-101:** Ms. Lum moved to accept and file; Ms.  
Sharpless seconded the motion; all members voted aye, motion carried.

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**b. Communication No. 2006-105:**

WJ: I believe that we need some discussion on this, because in the second to the last paragraph they ask for our support.

AL: Yeah. I have a meaning question about the last line on the first page, I guess this is for Bobby "...that county may not lawfully confer jurisdiction on the state courts." Tell me what that means.

BLT: Well, it means that the county cannot create causes of action that have already been created by state law and then say "district court you will hear these, and circuit court you will hear those."

AL: That is what I thought, but I just wanted to make sure. They can't say "This goes to you" right?

BLT: I do note that the circuit court here has heard at least two or three impeachment cases and the issue of jurisdiction has never been raised, so this came as a surprise. But when we did look at the state law it does seem there could be some ambiguity about whether they have jurisdiction or not. Because it is not strictly, one could argue, that it is a civil action. It is not criminal. They are either criminal or civil, and this is a civil action so therefore the court has jurisdiction. I guess the county in Honolulu is looking at it as kind of a unique, something that is not the normal type of civil action. We could argue if someone raised it, that the circuit courts have jurisdiction over all civil matters, but it certainly wouldn't hurt to make sure the law clearly stated that since there is at least one county that is concerned about it.

KS: Are there county laws that would have to be changed because of this?

BLT: No.

KS: No.

BLT: This would just be a state law that would clearly state that they have jurisdiction. If there is a bill and if it is worded..., and if the title is broad enough there might be an opportunity to clarify court jurisdiction over other county issues. There has been some concern over whether when the county issues civil fines and then we go for enforcement action whether the courts can help us, whether they have jurisdiction, I think they do, but (inaudible).

AL: They are asking us to support their efforts to change this law to give circuit courts jurisdiction, and they are just adding this (4), right? ((4) Actions for impeachment of county officers who are subject to impeachment.)

WJ: So what would be your advice in this matter?

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BLT: I would say that it doesn't hurt to support their action. What they are going to do is introduce legislation. When that legislation comes up for hearing at the state legislature the board would send in a letter of support, basically stating that you want to clarify any ambiguity in the laws as to whether the courts have jurisdiction and you want to make it clear that the circuit courts have jurisdiction over impeachment matters.

WJ: And you are right, on the last page it is just (4).

AL: It is just number (4). "Actions for impeachment of county officers who are subject to impeachment."

BLT: What I argue is that impeachment of a county official is a civil action included under number (3). (*Civil actions and proceedings, in addition to those listed in sections 603-21.6, 603-21.7, [and] 603-21.8.*) I think what they were concerned about is whether someone could argue whether impeachment, because it is a very specific type of action, might not be included in the normal understanding, or normal definition of a civil action which is usually to enforce private rights and remedies.

WJ: So it was intended to be this way anyway, and they are just trying to close a loophole.

BLT: Yeah, they are concerned that if it occurred somebody would say "Well this court doesn't have jurisdiction, so throw the case out." There must have been something that occurred in Honolulu that made them look at this issue, somebody wanted to do an impeachment. We've had impeachments, the courts have never denied jurisdiction here.

AL: But, this would then change it. It has always been in circuit court here.

BLT: It has always been in circuit court. This removes any ambiguity.

AL: It's coming under number (3), and then they just....

BLT: Yeah, and basically you go back up to (a) "*The several circuit courts shall have jurisdiction, except as otherwise expressly provided by statute.*"

AL: So they will have jurisdiction of actions for impeachment.

KS: Criminal, so it says that the circuit court handles four areas; criminal, civil, and actions for penalties and impeachment.

AL: My understanding is that the impeachment part is more or less a civil action and could have other implications.

BLT: They just want to add....

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KS: In practice would you have an impeachment action and then depending on the outcome of that could you go to either criminal or...?

BLT: I don't understand the question.

KS: I'll withdraw it. I'm asking, it says that the court has criminal offense; action for penalties, civil actions and then (4) is impeachment. That is four different categories of cases.

BLT: Yes, the way they have this organized.

WJ: It might not be (4), because she said civil actions (inaudible) they are just clarifying it.

BLT: The reference in number (3) is to other types of actions, like injunctive relief.

KS: Okay, then if (4), shouldn't that be in (a) under civil? In other words, right now, to me, it has the same status as (1), (2), and (3) and in fact....

BLT: Honolulu's position is that this is not covered by the term "civil action." That civil action is usually a type of private activity between entities and persons including corporations and businesses and non-criminal, whereas impeachment is the right of voters to seek redress against an elected official. They're concerned that the nature of the impeachment proceedings is a little bit different than what is normally conceived of as a civil action.

KS: Okay and that is the second paragraph on page 2, which talks about the citizens being without a valid process.

WJ: So our decision here is whether we wish to support their efforts or just file this document.

Al: Well, I think it would be to our benefit to have it clarified because if an impeachment comes up and somebody chooses, with all of this, to say "Well you don't have jurisdiction" it seems to me that lawyers are sharp enough that they would go to....

BLT: And the recent charter amendments have made it more difficult to impeach someone. Previously all you needed was 100 registered voters from any district. That has been changed. For a councilmember it has to be people in your district

Al: It has to be a percentage, right?

BLT: I think it may have been changed to a percentage.

AL: A percentage, right?

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BLT: I think the concern was that there had been impeachment proceedings made against council members and none of the people that signed the petition were even in the district that had elected them, so it was people trying to get rid of them who didn't live in their district.

AL: And had never voted for them.

BLT: Usually it was the marijuana, an issue that in their district that was not an issue. There was some concern and that had some of the rationale behind those changes. Some people would be truly offended if, not only was it more difficult to seek impeachment, but once you got to court someone raised the argument that you don't have jurisdiction.

AL: Yeah, that's what I am concerned about. Somebody could say that "It's really sloppy here, you don't have jurisdiction over any of it" then they say who does. Well, if circuit court doesn't have it then who does?

BLT: I think that on the state level an impeachment proceeding of the Governor is handled in the state legislature, not in the courts.

AL: The governor...

BLT: Normally an impeachment in a legislative type of a scheme is something that is done by the membership of the body or by the legislature of the elected official. In this case, one where the electorate drafted and approved of, the charter decided that they wanted it in the hands of a judge as opposed to in the hands of the other council members. When you try to impeach all nine (council members), which has happened before, obviously they can't sit in on their own impeachment.

AL: Well, I think this is something that we should support.

BLT: Basically, what you would be doing is authorizing your chairman to send a letter on behalf of the board supporting the legislation when it shows up. I would track it and when it came up for hearing I would prepare a letter for the chairman to submit saying that you have received communication from the Honolulu Ethics Commission and you support this amendment to the law to remove any ambiguity about jurisdiction.

**Motion and Vote:** Ms. Lum made a motion that we support this effort by Honolulu Ethics Commission to clarify the circuit court jurisdiction over impeachment; Ms. Sharpless seconded the motion; all members voted aye, motion carried.

**5. NEW BUSINESS**

**Election of Chairman and Vice-Chairman for 2007.**

**Motion and Vote:** Ms. Sharpless moved to nominate Wayne Joseph as Chair of the Ethics Committee for the year 2007; Ms. Lum seconded the motion; all members voted aye, motion carried.

**Motion and Vote:** Ms. Sharpless nominated Ann Lum to be Vice Chair of the Ethics Committee for the year 2007; Ms. Lum seconded the motion; all members voted aye, motion carried.

**6. UNFINISHED BUSINESS**

**a. Review of a draft letter to County Council re Changes to Section 29-1.1(C)5, the removal of the wording “in the County of Hawaii, and to Section 29-1.1(C)8, updating of the financial amount code.**

WJ: Did everyone have a chance to read this?

AL: The only changes were on page 2. In fact we talked about it last time, description of real property anyplace, and then the changes in the money.

BLT: I created a paragraph below those changes which tries to explain the rationale and purpose for those changes. That is the part that you should probably look at the closest, to see if that reflects your intent in terms of proposing the amendments.

AL: That is clear.

KS: Yeah, that is good.

**Motion and Vote:** Ms. Kendall moved to accept the December 13, 2006 letter regarding amendments to the county code Financial Disclosure Requirement and send it to Council; Mrs. Lum seconded the motion; all members voted aye, motion carried.

**b. Review of a draft Hawaii County Board of Ethics Handout for new employees, board and commission members, and elected officials.**

BLT: One thing I wanted to note. When I was doing this I swore that there used to be a provision in the county code on post-employment that exempted people who had only been employed for six months or less from that post-employment restriction. The state law says that if you have been employed for 180 days or less, then the 12-month employment restriction does not apply to you, but there is no such language in the Hawai‘i County Code. So we have a 12-month employment restriction. If we hire somebody for three months, let’s say we have a building inspector, and we have a shortage and we need to fill this position. We hire somebody

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for three months. They are prohibited from post-employment on any matters that might have been in their purview for 12 months or longer than they were employed by the county. The state looked at that and made an exemption. I was so sure that language was in the county code. I looked and could not find anything, and I wanted to bring it to your attention. There is that difference in state law (HRS 84-18(e)) which says on post-employment “*This section shall not apply to any person who is employed by the state or any person employed for less than 181 days.*” So in other words, six months, it doesn’t apply to you. The concern at the state level was that there might be people you want to hire for very short term. You have a vacancy, somebody is ill, you need emergency appointment, but they won’t take the position. Let’s say it is an engineer, they will not take the position if it is going to preclude them from employment for a 12-month period. For three months then they can’t work for 12 months in certain capacities. They will decline the position. I think that is most likely happening with people who have retired. We tap them to fill positions and still they want to go work later as a consultant for somebody else. Just a thought, you may want to look at that. Review whether you want to propose that amendment to them.

Then on this ethic guide, it is really a work in progress. It is intended as a first draft. There are actually two parts to it. The first part is the guide and the last two pages is an ethics check list. I did not include the provisions that the state guide has on how to file or request for an opinion, or stuff like that. I just didn’t get to it. What is different about the guide that I am presenting verses the state guide is that it has a more extensive description of what is a prohibited campaign activity, or prohibited personal or business activity. This could be deleted or left in. The specific reference to the county’s e-mail policy gives you examples as to the kinds of things that are not a permitted use of county equipment.

There are examples of what is occasional, incidental, or reasonable use. I have taken these examples from opinions either issued by the State Ethics Commission or by other ethic commissions across the country when they have had to interpret what the incidental personal use was. I looked at a variety of opinions from around the country. They said while at work obviously you have to use your phone to call the doctor, to call the school, or if it is an emergency contact number the school has, that is an incidental reasonable use. You shouldn’t be using the phone to get bids for your business or very long conversations. I have been irked, not necessarily with government employees, but for example in the check-out line at the store and the cashier is on the phone discussing some personal stuff. It just means that at work you are supposed to be doing work, not other stuff.

The e-mail policy is a result of the fact that we had an employee selling things on E-bay during work time. That never got to the Board of Ethics because that was handled internally and their access to the internet was cut off and they were reprimanded and disciplined. We have to remind employees that it is county e-mail and the county has the right to review your use of it. It is far more intrusive than phone calls, because of the risk to the county of viruses and other things that can come in and crash the system. Internet access to our system might allow people access to private confidential information, so it is an area we try to get employees to understand.

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I included the county vehicle example because this came up where somebody's personal vehicle was in the repair shop. They said "Well I am going to use the county vehicle this weekend" and I said "No, you can't." I think the only people who can use the county vehicle all the time is civil defense or the Mayor and that is because they are on 24-hour call. For everybody else in the world, if your car is in the shop you have to rent a vehicle or borrow a car. Just because you happen to have a county vehicle issued to you doesn't give you the right to use it for personal reasons. You can use it for county business, but this weekend if you want to go to Kona to shop at Costco you can't use the county vehicle. If you have to go to Kona to inspect a sewage treatment facility or something, then you can use the county vehicle on the weekend. I wanted to include this because the question had come up and there has been public concern about the use of county vehicles.

AL: Like on Sunday afternoon, right.

BLT: Yeah, so it's real clear that you can use your vehicle if it is on the way. Driving from home to work, you can drop your kids off. On your way home, you can pick your kids up, or you can stop at supermarket and shop because it is in transit.

AL: We don't have that many roads, right?

BLT: Yeah, but that wouldn't mean you could drive to Costco on your way home from Hilo and then drive back to Hilo. That would be out of the way.

KS: In general, my feeling is that these kinds of printed materials should be very, very brief and reflect the exact language extracted from the code, or the Ethics Code. Interpretive statements should be clearly marked, like put in italics, because if... my experience is when a union person gets a hold of this your interpretation becomes fact and law, or part of the contract or something you never intended. It has some kind of status and it can be picked apart, and I think that this kind of background material is good for classroom discussion but to put it in writing there as an example....

BLT: A lot of this has been taken from publications by the State Ethics Commission with similar language. Some of it has been taken from, like the examples of prohibited activity, specific cases.

AL: Well maybe if we just said examples. You want it set apart?

KS: Yeah, italics. What does that mean.

AL: Examples of it.

KS: The stuff that is the wording of the ethics code or county code should be in regular type, but interpretive explanatory materials should be in italics or quotations or something like that.

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AL: Or the other way around.

KS: Or the other way around. My other thing is on page 2 where it says that you should not attend a campaign event in a county vehicle. You shouldn't but you did, so what?

AL: You want to say "do not attend" for example?

KS: Yeah, I am looking at it from a very adverse position. This document actually is not an adverse document; it is supposed to be user friendly. We are trying to make ethics something; I mean we want ethics to be part of people's lives. It is just the way the printing is, or the bolding is, that is getting me confused or something, I don't know. Like this one is really short and sweet--great.

BLT: That would be the last two pages.

AL: Right, but I think to be useful people need specific examples. I know where you are coming from. Like this e-mail thing, you mean I can't play my games, you know? Why, it only takes five minutes. Software that you might want to put on your computer....

KS: Make my birthday cards....

AL: Yeah, so I think that we do need to have specifics.

WJ: I think that when you have specifics like this and give examples then there is no excuse. If it is provided to you in black and white, it showed you concrete examples. So, if you cross that line, you should be held accountable. Is this going to be used for new employees?

BLT: Well, the idea was that this along with a copy of the actual Ethics Code would go to department heads, supervisors, and the new employees and all the council members. They have lots of new employees. Prospectively, it would go to every new employee.

WJ: As I understood it, the big problem with the county was that they weren't giving their new employees proper orientations. That has been lapsed for many years. I think that is something they are trying to renew again and it is something that needs to be done.

KS: This would be easier for me if the interpretive examples were italicized and clearly....

AL: I am against the italics because they are hard to read.

KS: Okay, okay.

AL: The big part should be italicized. Set apart some way. Very definitely set apart.

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KS: Right. The other thing is that whenever in doubt it is advisable to seek an opinion from the Hawaii County Board of Ethics, true. Would you also want to put in the source documents? Because every office has the county code. I mean we don't want people saying....

AL: Like this guide is designed to give you a quick overview of the county ethics code provisions and you've been handed the ethic code with....

KS: Oh yeah, right, this is the disclaimer.

AL: You've been handed the code, and this is the explanation to go with your code that has just been handed to you.

BLT: You see we have a lot of employees who think that "this isn't a problem" so they go and do something, then somebody challenges them afterwards. If you'd asked and gotten an opinion that said it was okay, then that would have been your answer. If you haven't done that then you are in the uncomfortable position of being open to question on whether it is permissible or not. It may be permissible, but you may go through a very uncomfortable period where people will accuse you of violating the code. I have always told people "Hey if you are going to get outside employment, then go get an opinion." Then you've checked it out and you certainly don't want to do something after the fact because the penalties are harsh on post-employment. You are just supposed to cough up the money and the county has the right to go seek that money from you. That's the area where most people can potentially get into trouble, outside employment and campaign activities. The biggest concern in that area has been elected officials and their staff. The employment issues have been the regular employees that work at water supply, work as engineers, or work as construction on the side because they are a county carpenter and they work construction on the weekends. If a building inspector is building a house and getting paid for that, is it a conflict? If you are a real property tax appraiser, can you do appraisals of properties? Is it a conflict when your appraisal of property could end up being the basis for someone's challenge of what the county is appraising the property for real property tax purposes. There are too many different types of situations to lay them all out, which is why we consistently tell employees that they should get an opinion to make sure that they are covered. Some of them don't want to do that, and some don't follow through. I think they are leaving themselves open.

KS: Would it be possible, in the introduction, to say or have a statement like you have been given a copy of the Hawai'i County Code of Ethics and you are responsible for carrying it out and there is some signature document. You know like this check list on new employees, like I had to sign various things when I was employed with the State. Then they know that there is an official document for which they are responsible and this guide is an interpretive document, a supplement and not be considered the 11<sup>th</sup> commandment, sort of thing. From my own personal experience, I see a union person trying to defend this with "Well, they never got the code" or "this is all I got," you know. Something like that. Then with the changes in type.

AL: I think that is a matter of document setup to clarify what is the example.

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WJ:           Isn't there something that comes with county employment that says you are required?

BLT:           I don't recall anything that advises employees about Code of Ethics when they are hired. I think elected officials get advised by staff and by county attorneys. The county attorneys have almost no contact with individual employees in the different departments. We do training for the police.

WJ:           No ordinance, nothing in our county code that says all county employees shall be familiar with ....

BLT:           Data requires a signature and acknowledgment that you received a copy of the e-mail policy. We have to sign for the sexual harassment policy. I would have to check with Civil Service.

KS:           See, those problems areas, like e-mail, harassment, kinds of things are put on retroactively, after a problem occurs. It is like closing the door after the horse is gone. I think we need to raise the level of awareness of ethics. You get this when you walk in the door. You sign for your tetanus shot, your payroll deduction, your retirement, your this, and this, and this and you sign for your job description. I believe this should just be brought up to that part.

WJ:           Part of their packet. But I thought it was.

KS:           No.

BLT:           I'm not sure that it is. I don't recall it being given to me as a county employee. I know I was made aware of it as an elected official, but that was more by the County Clerk and Legislative Auditor making sure that we were familiar with financial disclosure and all those other issues. I will check Civil Service.

WJ:           I think you should check with Civil Service, because Civil Service is part of our meeting for Cost of Government and this came up as well. I'm not positive but I thought this was part of the package.

KS:           Then we need to make sure that this document or our document is the same, not duplicate or not contradictory to theirs.

BLT:           I will check with them on what they are handing out.

WJ:           So for this morning, what would you like us to do with this?

BLT:           I think that I'd like you to take it with you. I will listen to some of the concerns you have about the stuff. There are some changes that I will look at. I will do the standard formatting for process of changes; do strike through and underlining for proposed changes so

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you can see what I am suggesting. This will be draft one. As I make changes I will underline proposed additions.

AL: I would like sometime to really give it a little more....

BLT: Yeah, take some time and I understand the concerns that Kendall has. The section that is really different from the state guide are those sections of specific examples and that was my personal... I have one in bold, one not, that is just changing the set up. It came from the fact that I felt people did not understand when you tell them that they cannot have a campaign activity and you cannot use county resources. They did not understand what that meant.

AL: I don't think that we can assume that somebody, just because they come to work for the county understands about the county code, and this and that and the other thing.

BLT: I ran into that when we had a strong disagreement over what was a campaign activity. I really felt that there wasn't an understanding. Some people thought it was a campaign activity if I am doing it for me, I'm the candidate, or I am doing for a specific candidate and am advocating for that candidate. I am saying "No" you can't do green party stuff, you can't do republican party stuff, you can't do democratic stuff, you can't even do non-partisan campaign activities unless it is a sanctioned county event. The elections office is doing specific things related to the campaigns to brief people. They are holding forum, or the county jointly sponsors some kind of brochure with the League of Women Voters of who is running for office. That is permissible. But you, on your own, cannot decide that you are going to have some kind of an event then give the number of your secretary as the contact person for that event.

KS: I agree with what Ann said. I agree very strongly with the explanatory detail however to put it in writing exposes the county. If there was a class-type exposure in the orientation program that kind of stuff is more appropriate. A one-on-one example. For example on page 3, if you drive a county vehicle and take it home with you, you can drop off or pick your kids up and stop at the store to pick up groceries on the way home, well can you stop off and attend a campaign event?

WJ: No, because on previous page....

KS: That is right. It says that you should not, it doesn't say I can't. Limiting the amount of interpretation in writing, I think, is a safer way to be.

WJ: Unless it doesn't leave any room for doubt. Like instead of "you should not" "you may not."

BLT: The reason I didn't use the word you cannot, it was not something that I found a specific case on. I did find specific cases, talking about incidental personal use, and that you could drop off your kids, you could do that kind of stuff. There hasn't been something specifically about driving the vehicle on the way home and stopping at a political event. I think it looks bad; it looks like there is an official endorsement of the county at a political event.

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I think if someone filed a complaint against you on that basis there is a good chance you would get in trouble. That is why I said specifically that you shouldn't do it because I think it opens the door. I recognize that I need to go back over this. Where I have gotten something specifically from an opinion I'll put a note on it "See State Ethics opinion such-and-such" so that it is clear that this is something that someone has actually decided on.

KS: I mean, at the very worst, picky example. You have a supervisor or manager, who is trying to interpret for an employee, then they are held accountable for giving the wrong information where the intent is nothing but the best and the employee, for one reason or another, either misinterprets it or twists it. That is what I am trying to avoid. Put the responsibility of interpretation clearly on the employee, as opposed to a shared. Time and time again in my career "Well, Kendall told me it meant this..." or "Kendall told me this is what abuse was..." I am using examples of people whose first language is not English, stuff like that. It becomes a rat's nest.

AL: But, our intention was to make the ethics understandable so they can use it.

KS: It was my idea to have a teaching tool.

AL: We are not going to get classes because it will cost too much so I think maybe we have to take a little risk, and it is not like it can't be changed as life goes on.

BLT: Take it home. Take a look at it come back with comments on it. I'll look at it again and maybe be able to cue you folks as to where I got it, if it was an actual opinion or just literature. Surprisingly the language of ethics codes across the country is remarkably similar.

AL: We are actually talking about formatting on a lot of this.

BLT: I was surprised and so I felt fairly comfortable that if there were opinions in other jurisdictions on similar language and interpretation because that is kind of how courts interpret stuff. You look around and see if someone else has interpreted what is personal use, business use, private use or incidental. I wanted to try and come up with something that would help people avoid making mistakes and getting into trouble.

AL: And be aware that it is a requirement that they think about these things, which I think is what Kendall started off with way back in the very beginning of all this. Let's make people aware that they are responsible for this.

BLT: I also was looking as something that would go to elected officials who have appointed staff whose job security is nil. It is basically at will. I wanted something that sets some parameters in writing. Your boss cannot tell you to do this on county time.

AL: Oh, yeah.

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BLT: This was from personal experience of having seen employees feel like they had to do whatever they were told to do because they were appointed. That is how Rene Mansho ended up in jail. She was having them do campaign activities. But it wasn't just campaign activities; she was having her employees do Boat Days. The Boat Days were not an official county function. Rene went to jail for that too, it wasn't just the campaign stuff. She had to pay back. Sometimes elected officials have a hard time seeing the difference between what is community benefit verses official county functions. They feel like this is my employee, this is my staff, they have to do all these things even for these other organizations, even though they are not county organizations. That is how Rene Mansho got into big trouble.

AL: In that respect, this kind of document actually could be used to set up dialog between an employee who has questions and the person asking them to do something. It gives them a little power over their own actions.

BLT: On page 3, the ones in bold, number 2. Number 1, of prohibited activity was something I did and got into trouble for. I wasn't paid to be in the ad. Someone asked me if I would be in a piece that would be advertised. I said sure, I think that is a great project. Then afterwards, it was oh boy, I didn't get paid and I'm not affiliated with the business and I don't have any action in front of me that I am voting on but it still looked like I was endorsing it as an elected official. Part of that was my problem in that I didn't understand that they were going to use the word councilwoman. I thought they were just going to say Bobby Jean Leithead-Todd. If you are a private individual you can, but they used the word "councilwoman." So, number 1 was me.

Number 2 was two different incidents with elected county officials. None of these made it to the Board of Ethics. One was where a non-partisan political forum was being held by a councilmember who was not running for re-election. I checked later on this and we had a real disagreement in the office, and we said it was a campaign activity and you should not be doing that, you should not be using staff. The staff person said "Well my councilperson said that he hires and he fires and that I have to do it," despite the council chair stating that this should not be done on county time. What made it worse is that after the non-partisan political forum where the councilmember was not running for re-election he publicly endorsed one of the candidates that it appeared at the forum, so it made it even murkier. Then people questioned whether the forum was done for the expressed purpose to endorse this person. I talked to some people at the state ethics staff and they said even if it was a non-partisan activity, even if you weren't candidate that you could not use county resources for that unless the county was sponsoring the event. But you, as an individual, could not say "I am going to hold this forum" and use people. It is political, it is campaign focused. If you have people running around doing that, people have regular work that they are supposed to be doing during county hours, and the campaign thing should be non-county hours.

The other one, number 2, refers to another councilperson that was hosting a party function at the county building, which in and of itself was not a problem; however in the newspaper they listed the County Council's secretary number as the contact, and that's what we objected to. I was staff at the time and said you cannot do this, this is improper. You can use the

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county facility, which is available to everybody else, but you cannot advertise it in the paper that they call the County Council number.

AL: It seems so clear when you say it.

WJ: And it makes good sense.

BLT: These are actual and so is number 3. Number 3 was another councilmember. It was a Board of Ethics case from years ago, where there was a councilperson that solicited funds for the Girl Scouts on county stationary and mailed it out on county postage. Girl Scouts is not an official county thing, and they said you couldn't do that. United Way is officially sanctioned and you are allowed to do that. The county has embraced some others. The Mayor's office has decided that that these are county-wide, like the Food Bank, and Blood Drives, and those are fine. You don't want individual people deciding that they can use county equipment to do fundraisers for the.... My daughter is in the band, my daughter is in the Key Club, I can think of a whole bunch of things that I could Xerox on county time.

AL: That is the real one, is how the Xerox is used.

BLT: That is why, if you multiply it by one employee with one child, we have 2000 employees with access to Xerox machines. You multiply it and it starts costing the county money, not only for the stationary and postage, but the resources of the equipment wear and tear and maintance of the equipment. You need to get that out to people that they are not supposed to do that. Otherwise they have to get an opinion. You don't say "It is only 5 copies, or 5 stamps." You shouldn't do that. We keep a separated little kitty upstairs which is for non-county postage stamps where you can put in your .39 cents so you are not using county meters. Sometimes people lose track of this.

WJ: How about putting somewhere on this form, that if you are in doubt and need an advisory opinion, a phone number? Put that nice and bold and big and make it known when in doubt this is who you should contact.

BLT: The contact would be Corporation Counsel to get the form.

AL: Yeah, it could just be the phone and they are directed on for that.

WJ: A sample form would be attached to this.

BLT: Okay, a sample form.

WJ: People need to know that when something arises, who to call to get an advisory opinion.

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BLT: That is the part that I didn't attach in here, that the state does have, about how do I file an opinion. I'll put those in.

AL: It doesn't have to be all the forms, just who is the Board of Ethics, what is their phone number.

BLT: A mailing address.

AL: The first contact says here this is what I can do. I can call this number and they will tell me what to do.

KS: That is a good idea, it makes it user friendly.

AL: Yeah, it makes it user friendly. We really do need to move in this direction.

BLT: This is the most proactive board that we have had in a long time. You should be proud of yourselves. This is a good thing, because you are actually being proactive and are trying to help avoid problems as opposed to sitting here and waiting for something to come in and react to.

AL: It feels like housekeeping. But to try to make it possible so people don't get into these situations. If we are going to sit here we might as well do something.

WJ: Absolutely. Any further action on item b?

AL: Are we going to table this?

WJ: Yes, it will come back to us next month on the agenda.

AL: Draft number 2 is expected.

WJ: So let's move into item c.

**c. Final review of the revised detailed instructions and financial disclosure form.**

WJ: This is it, right?

AL: This is it, we have two amendments going, you have the letter that is going to the council to remove the "County of Hawai'i" from where your property is and to change....

WJ: In the meantime, this is it?

AL: In the meantime this is it.

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WJ: This could be put out there by January when most people start filing their financial disclosure statements. Then the changes can be made afterwards.

AL: And basically these changes were spelling and a couple of errors that were picked up by the secretary.

WJ: This looks very nice.

KS: Yes, see like here the first thing is questions, who do you call?

AL: I've looked at it too much, I have no opinion.

WJ: Do we need to make a motion?

**Motion and Vote:** Ms. Kendall moved that we accept and adopt the Confidential Disclosure of Financial Interest Form Instructions and the Confidential Financial Disclosure Form, both revised 11/06; Ms. Lum seconded the motion, all members voted aye, motion carried.

## 7. EXECUTIVE SESSION

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

The Board moved into Executive Session at 11:12 a.m. and re-entered Regular Session at 11:30 a.m.

**Motion and Vote:** Ms. Lum moved to accept and file the financial disclosures of Kerry Inouye, Board of Ethics; Myles Y. Miyasato, Cost of Government Commission; David Y. Omura, Pension Board; Patricia Provalenko, Cost of Government Commission; Melvyn K. Sakaguchi, Cost of Government Commission; Barbara Stremski, Cost of Government Commission; and John H. Sucke, Pension Board, and to return to Claude S. Onizuka (Liquor Commission) his disclosure for completion of Item 1 (Consideration Performed or Given for Compensation Disclosed in This Item); Ms. Sharpless seconded the motion; all members voted aye, motion carried.

## 8. ANNOUNCEMENT

The next regular monthly meeting is scheduled for Wednesday, January 10, 2007 at 10:00 a.m. at Corporation Counsel Conference Room, Hilo Lagoon Centre, 101 Aupuni St., Suite 325, Hilo, Hawai'i 96720.

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**9. ADJOURNMENT**

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

*The meeting adjourned at 11:38 a.m.*

Respectfully submitted:

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Karen Delimont, Secretary