

# HAWAI'I COUNTY BOARD OF ETHICS

## MINUTES – REGULAR SESSION

December 14, 2005 – 10:00 a.m.  
Department of Liquor Control – Conference Room  
101 Aupuni Street, Suite 230  
Hilo, Hawai'i 96720

**Present:** Reeve Williams, Chair  
Karl Kawahara, Vice Chair  
Wayne Joseph, Member  
Bobby Jean Leithead-Todd, Deputy Corporation Counsel  
Mary Crosson, Secretary

**Also Present:** Jay Yoshimoto, Esq.

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### 1. CALL TO ORDER

The meeting was called to order by the Chair at 10:05 a.m.

### 2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

Jay Yoshimoto of the Legislative Auditor's Office was present but indicated he was only there to observe.

### 3. APPROVAL OF MINUTES.

November 9, 2005, Regular Session: Mr. Joseph moved to accept and file the minutes; the motion was seconded by Mr. Kawahara; and the three members present voted aye to accept and file the minutes.

November 9, 2005, Executive Session: Mr. Joseph moved to accept and file the minutes; the motion was seconded by Mr. Kawahara; and the three members present voted aye to accept and file the minutes.

### 4. COMMUNICATIONS

a. Communication No. 2005-17: The Police Department's Annual Report for Fiscal Year 2003-2004. Mr. Kawahara moved to accept and file away the report; Mr. Joseph seconded the motion; and the three members present voted aye on the motion. Mr. Kawahara held on to the report, to read at his leisure.

- b. Communication No. 2005-54: Letter to the County Council from Mayor Kim, nominating Ann Lum to the Board of Ethics. Mr. Joseph moved to accept and file the letter; Mr. Kawahara seconded the motion; and the three members present voted aye on the motion.

Bobby Jean Leithead-Todd brought to the Board's attention that two communications were received, Nos. 2005-67 and 2005-70, which needed to be addressed prior to the January meeting of the Board of Ethics. She asked for a motion to amend the agenda to include these two communications.

Mr. Joseph moved to amend the agenda to add the communications; Mr. Kawahara seconded the motion; and the three members present voted aye on the motion.

- c. Communication No. 2005-67: Letter to the Board from Joseph Kamelamela, Deputy Corporation Counsel, requesting a continuance of the Richard Ganigan petition (*Petition No. 2005-04*) until February, 2006, as Respondent Mr. Keliikoa and witness Mr. Nakasone would not be able to attend the January hearing.

The Board questioned whether a continuance was agreeable to Mr. Ganigan, the petitioner. The Board's secretary informed them that Mr. Ganigan had received a copy of the communication and had called to inquire whether his petition would be heard in January or not, as he had witnesses he needed to coordinate. The secretary had checked with Patricia O'Toole, Deputy Corporation Counsel, and was informed that Mr. Ganigan could call off his witnesses for January, as it was likely the Board would continue the hearing until February.

Mr. Kawahara then moved to defer *Petition No. 2005-04* until February; Mr. Joseph seconded the motion; and the three members present voted aye to defer the petition until February, 2006.

- d. Communication No. 2005-70: Letter to the Board from Michael Udovic, Deputy Corporation Counsel, requesting a continuance of the Roger Christie petition (*Petition No. 2005-08*) until after February 10, 2006, due to several Respondents being out of the country until then.

Upon discussion that both *Petition Nos. 2005-04* and *2005-08* couldn't be heard on the same date, Mr. Kawahara moved to defer *Petition No. 2005-08* until March, 2006; Mr. Joseph seconded the motion; and the three members present voted aye to defer *Petition 2005-08* until March, 2006.

## 5. NEW BUSINESS

Review Disclosure of Financial Interest statements: The statements of Robert Pleau and Laura Schuster were reviewed. Mr. Williams pointed out that Mr. Pleau listed CJW Architecture as his source of income, yet he is an assistant building inspector with the Department of Public Works. He requested that clarification be obtained regarding Mr. Pleau's income source and employment with the County.

Mr. Kawahara moved to accept and file Ms. Schuster's financial disclosure; Mr. Joseph seconded the motion; and the three members present voted aye on the motion.

Mr. Joseph moved to defer acceptance of Mr. Pleau's financial disclosure until clarification could be obtained; Mr. Kawahara seconded the motion; and the three members present voted aye on the motion.

## **6. UNFINISHED BUSINESS**

- a. Petition No. 2005-05: Review draft of Informal Advisory Opinion on Mr. Frankel's petition regarding Mr. Arakaki's receipt of gifts to his legal defense fund. Ms. Leithead-Todd pointed out that since Mr. Williams was recused as the chair on this case, and Mr. Inouye was not able to be present at today's meeting, there was no quorum to hear this issue. It was questioned as to whether Ann Lum, who is expected to be appointed to the Board soon, could vote on this issue later. Ms. Leithead-Todd said that as long as Ms. Lum is given opportunity to read the minutes and review the documents, she can vote on the issue.

Mr. Kawahara, who had previously submitted his resignation, said that he will make it official to extend his term indefinitely, until such time that he is not able to carry out his duties due to other commitments. He requested that the Board's staff write a letter for him to Mayor Kim regarding this, as he had received a letter from the Mayor asking him about this.

- b. Petition No. 2005-06: Review draft of Declaratory Ruling on Mr. Frankel's petition seeking a decision regarding interpretation of the law as it relates to financial disclosure forms. Ms. Leithead-Todd pointed out that Mr. Frankel's petition had also stated that the financial disclosure form is not clear on providing information on mutual funds, and that the Board had inadvertently neglected to address this part of the petition. People who have payroll deduction into a deferred compensation program may have the money invested in mutual funds. Ms. Leithead-Todd said that Mr. Frankel is assuming that people are in the retirement system. She said most people aren't even aware of where their funds are being held or invested, as this is done through the Employees' Retirement System. She said didn't know if the Board wanted to add anything to the draft opinion on this, or just adopt the opinion as is and leave the issue up to the discretion of the employees, whether they have to list mutual funds. She said Mr. Frankel was generally saying that people in the ERS have mutual funds and should disclose that, but most people don't know where their money is.

The Chair said the draft of the Informal Advisory Opinion didn't answer the question about spousal finances and that he wants a paragraph in there about the Board pursuing an amendment to the Ethics Code so that its requirements are the same as the State's requirements. This should be put on the January agenda. Ms. Leithead-Todd read aloud her suggested sentence to include in the opinion: "The Board discussed the differences between the State Code and County Code and

expressed its desire to have the Code amended to require the disclosure of financial interests of the person disclosing and the financial interests of the person's spouse and dependent children." The members agreed with this wording. The issue of amending the Code is to be placed on January's agenda.

- c. Petition No. 2005-07: Review draft of Informal Advisory Opinion on Mr. Frankel's petition seeking implementation and enforcement of the County Code pertaining to the registration of lobbyists. The Chair wanted the draft opinion amended to include that the Board will pursue an amendment to the Code to make it consistent with State law, so that attorneys are not exempt from registering as lobbyists. This proposed amendment to the Code is to be placed on January's agenda as well.

## **7. EXECUTIVE SESSION**

Mr. Kawahara moved to enter Executive Session; the motion was seconded by Mr. Joseph; and the three members present voted aye. *See* the minutes of the Executive Session.

*Moved into Executive Session at 10:45 a.m.*

*Resumed Regular Session at 10:55 a.m.*

Mr. Kawahara moved to accept and file the Disclosure of Financial Interest statements of Anson Chong, Erik Flores, Stephen Frendo, Ruth Walker, and Benedict Yung. Mr. Joseph seconded the motion, and the three members present voted aye.

The Board deferred the matter of Kenneth Kaneshiro's financial disclosure for clarification by the secretary.

## **8. ANNOUNCEMENT**

The Chair announced that the next regular monthly meeting of the Board is scheduled for January 11, 2006, at 10:00 a.m., at the County Council Room.

## **9. ADJOURNMENT**

Mr. Joseph moved to adjourn the meeting; Mr. Kawahara seconded the motion; and the three members present voted aye on adjournment. The meeting adjourned at 11:02 a.m.

Respectfully submitted:

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Mary E. Crosson, Secretary