

HAWAI'I COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

July 14, 2004 ~ 10:00 a.m.
County Council Room
25 Aupuni Street, Hilo, Hawai'i

- Present:** Leroy Victorine, Chairman
Sharon Cislo, Vice Chairman
Reeve Williams
Kerry Inouye
Bobby Jean Leithead-Todd, Deputy Corporation Counsel
Paulette Cainglit, Secretary
- CHAIR: The meeting shall come to order. Members of the public, do you wish to speak to us?
- BLT: There are no members.
- Chair: We have circulated the minutes of the Regular Session and the Executive Session of May 12th our last meeting. I'll entertain a motion to accept and file, or are there corrections?
- SC: So moved.
- KI: I second.
- CHAIR: It's been moved and seconded we accept and file both the Regular Session and Executive Session Minutes. All in favor.
- SC: Aye.
RW: Aye.
KI: Aye.
- CHAIR: Aye. It is passed. Communications. First of all, we need to make corrections. We have 2 communications as typed on the communications number 2004-10 and 2004-11. It should be 11 and 12. Please make the corrections on yours. 2004-11 is the Issue of the High Road and 2004-12 is the letter from Chief Mahuna who forwarded a copy of the Hawai'i County Police Annual Report for 2002-03. And as usual, it comes out a year later.
- SC: I make a motion to file communication 2004-11 which is the High Road.
- RW: Second.

CHAIR: It's moved and seconded that 2004-11 be accepted and filed. All in favor.

SC: Aye.

KI: Aye.

RW: Aye.

CHAIR: It's approved. 2004-12.

SC: I make a motion to accept and file 2004-12 which is the letter to the Board of Ethics from Chief Lawrence Mahuna.

KI: Second.

CHAIR: It's been moved and seconded to accept and file 2004-12.

RW: Discussion please. Do we have anything to do with this, in any way, shape or form?

CHAIR: I'm sorry.

RW: Is this for our information only?

CHAIR: Yes, this is for information only.

RW: Oh, okay.

Chair: This is the actual format for _____.

RW: Alright.

CHAIR: It's been moved and seconded that we accept file communication 2004-12. All in favor.

SC: Aye.

KI: Aye.

RW: Aye.

CHAIR: 2004-12 is approved. New Business. Anything else for communications? No? We talked about something else.

PC: It was about the Financial Disclosures...we were going to discuss that.

CHAIR: Oh, yeah, okay that would be on later.

PC: That'll be under New Business too...later on.

CHAIR: For the Board's information, we were supposed to go through discussion on the Board of Ethics rules on Financial Disclosures at

this meeting, but was left off of the agenda accidentally. I'd like to add it to the Agenda to be discussed after we go into Executive Session. We need to go into Executive Session, I'll entertain a motion.

BLT: No...for the Gift Disclosures there's no need to go into Executive Session...for the elected officials. Those are open to the public 'cause there's nothing in the County Code that says that...

CHAIR: Okay, these are...accept for Andy Levin, I think everybody else is elected.

BLT: Yeah, and his still _____.

CHAIR: Okay, we have before us now, Gift Disclosure Statement 1 through 11 for our elected officials and our executive assistant.

PC: Should I have made copies of these?

BLT: Okay, so they can each...it'll make it easier.

CHAIR: I'm sorry.

BLT: We could run copies next door and make it easier.

CHAIR: Yeah, I think that might be the best.

BLT: Okay, why don't we take a short break. Mr. Chair, we'd like to take a short recess.

CHAIR: We're in recess at 10:08 a.m.

RECESS: 10:08 a.m.

RETURN: 10:17 a.m.

CHAIR: It's 10:17 a.m. Copies of the Gift Disclosure Statements have been circulated for review. Did everybody review their statements and at closure of the initial review, we will discuss it.

RW: So you want us to go through each one of them and hold our comments until the end...

CHAIR: Yes.

RW: and we'll discuss them then?

CHAIR: There you go.

CHAIR: Okay, is everybody done?

RW: I'm done.

CHAIR: Okay. Any questions about any of the Gift Disclosures?

RW: I've got concerns. Should I state them? Well, we have 2 members of our council, including the chair and Mr. Reynolds for taking gifts...although the amount, is clearly...that it could involve a conflict of interest to some point when you look at the donors. Maybe I could direct you attention to James Arakaki's gifts and to Joseph Reynold's gifts.

CHAIR: Specifically, what do you...

RW: Specially, you've got 2 major land developers, Hapuna Prince and Hokuli'a giving out gifts which aren't in a principle sum. Would certainly raise the concern in my mind whether he would recuse himself on any future land reclassification decisions...or other _____ issues of these two major island investors. I'm looking at the definition of gifts...of what that includes and what it could infer that this would in some way be intended to influence his future voting. Same with Mr. Reynolds. We've got...I don't know who Hansen Technologies Systems are in Sacramento. That was a pretty nice little gift. Is that Rene Mansho the former council person on Oahu by the way, out there looking to do recycling on this island? I don't know if that's lobbying. I don't know who Barry Parker is for Hokuli'a. Probably Hokuli'a...probably Hokuli'a, I would guess a Hokuli'a representative.

BLT: On that one, I can answer because I did receive phone calls from staff on some of these. And on that one, I had actually advised Mr. Reynolds' staff person, that that one didn't even need to be listed, 'cause Barry Parker is a personal friend...

RW: Oh.

BLT: who happens to be a property owner at Hokuli'a.

RW: Okay.

BLT: And there are mutual exchanges of gifts, but they wanted to air on the side of the Disclosure, but he is not a Hokuli'a employee or lobbyist. He's just a personal friend who happens to have golf membership. Mr. Reynolds...

RW: Okay.

BLT: made a decision to put it down just out of an abundance of caution.

RW: Okay. We're going through with the other 3. So I'll accept that. As far as the other 3, Hansen Information Technologies; Hapuna Prince; and Hawai'i Metal Recycling. We're looking at the whole issue of waste management on this island, looking at privatizing and I don't know...is this a contender?

BLT: Hawai'i Metal Recycling has a contract with the Department of Environmental Management to do some of the recycling. The Council does not draft review, approve or procure those contracts. They are done on a bid or RFP basis by Environmental Management.

RW: Okay.

BLT: But I just...looking at this, I think maybe one of the questions is...is That, in some cases, you don't know the name of the conference, what the purpose of the conference was, or what the purpose of the trip was. And I think that that would be helpful in some cases like, if the trip to like say, Taipei is by the sister city of the County, you know, if the conference is the solid waste conference...because there are opinions on certain kinds of gifts that you can accept, and those kinds of conference gifts are considered acceptable.

RW: Ah hm.

BLT: But I think that in some ways, there isn't enough information about the nature of the gift for you to really understand what it was for and why the council member went to a conference or went on a trip. 'Cause those are the real big ticket items.

RW: Yeah. Well, I think what we need...

BLT: You could ask, I think you could ask for...

RW: I want clarification, we'd like clarification, I'd like clarification. I hope you folks feel the same. But, again, when I see, when I see...certainly Hokuli'a _____, that's out there for everyone to read about and understand that that's I guess they're going into litigation again and...when you're out putting I accounts for sure, a representative from same as Hapuna, South Kona or North Kona, I'm not sure where, I'd like clarification on Reynolds' disclosures. Who's Towne Development and what's NACo Conference. Who's Towne Development? What's that all about. Hansen Information Techonologies. What was the conference? Who are they?

CHAIR: What is this NACo Conference?

BLT: That's the National Association of Counties. On that, apparently, when reading this Disclosure. When he attended the conference, somebody took him out to dinner. But that's not that they paid for the conference, 'cause the conference costs a lot more than that.

RW: Yeah.

CHAIR: Obviously.

RW: Well, I'd like to propose...I'd like to move that we receive clarification from the two council members here for those two. Hapuna Prince, Hokuli'a for Mr. Arakaki. Hansen Information Technologies, Hapuna Prince and I think even Hawai'i Metal Recycling for Mr. Reynolds for further information. Of course, the Taipei trip junket should probably be explained further too.

BLT: I'd like to note that the donor to Mr. Arakaki is the Hapuna Prince Hotel.

RW: That's Fred Yamashiro surely.

BLT: Yeah, well, in this case it's the Sam Choy Poke Festival.

RW: That's Fred Yamashiro.

BLT: Yeah, I would imagine, but it's a fundraiser. And I guess...I don't know From Mr. Arakaki's, but in Mr. Reynolds, it looks like he was asked to be a judge. And so, you know, you're invited to participate there. And I know that's a charity fundraiser. So we can ask for clarification.

RW: Yeah. I'd like to do that. And I guess further clarification of what is the...Mr. Safarik took a trip to Taipei and at the Taipei's government's expense. What is the link up with Taipei.

CHAIR: Same thing with Arakaki.

SC: And Bob Jacobson.

RW: And Bob Jacobson. What's that all about.

BLT: Mr. Jacobson's case, I think it's good to ask for the clarification. He did inform me that he was invited by this Wei Zhang as a green party member, to go to China. And so, he went as, I guess, as a member of his political party. That it might be more informational to know who is Wei Zhang, what is his title, what's the purpose of the trip. Because it's hard for you folks to determine whether it's an improper gift or not unless you know more about the donor. So

there may be some deficiencies here. So on those specific ones that you have concerns about, you should say something.

RW: Yeah. So I said my case and like, I'd even propose that that go forth for further clarification before we sign off.

CHAIR: Do you want to make that a formal motion?

RW: That's a motion.

CHAIR: Okay. It's moved that we ask for clarification on...

RW: Council gifts. Arakaki, Reynolds, Safarik, Jacobson.

SC: I second that.

CHAIR: It's moved and seconded that we ask for clarification from Council for trips to Taipei, et cetera.

RW: And the other donations. I'm interested in the Hokuli'a Golf for Arakaki and...oh, you said that's...is that the same Barry....Barry _____.

BLT: No. I don't believe that that one is. 'Cause he's listing the donor as Hokuli'a, whereas, Mr. Reynolds listed it as his friend. So I think those are different instances.

RW: Well, in the Sam Choy Poke Festival...I mean...that may be charity, but, I mean, that's essentially that's like sales and marketing, PR, community relations...it's the same gaggle, I guess.

CHAIR: It's moved and seconded that we ask for clarification as stated. Any discussion?

BLT: May I suggest that as...'cause I'm going to be writing the letter, that maybe one of the pertinent questions should be is, "whether those organizations or people currently have any pending legislation before the County Council."

RW: Yeah.

BLT: Because would help you to...

RW: Pending or _____

BLT: Take a vote.

RW: Yeah.

CHAIR: All in favor of the motion.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: It passes. We ask for clarification. Other than that, are there any other...

SC: Could you give me the names again, that we're asking clarification on?

CHAIR: We're looking at Arakaki.

SC: Okay.

RW: Gary Safarik and...

KI: Jacobson.

CHAIR: Jacobson.

SC: And was Andrew Levin in there also?

RW: Oh, yeah.

SC: That was the trip to Tokyo and Osaka as part of the Governor's Ohana Mission.

BLT: That's...

RW: That one's kinda...I saw that as a...let's see what that's all about. That's clearly a...Big Island Visitor's Bureau was the donor.

SC: Okay.

RW: And it's really a trip to enhance tourism.

CHAIR: As I recall, the newspaper article said that's what it was.

SC: Okay.

RW: Yeah, I'd say it was pretty up and up.

CHAIR: So, we're looking at Mr. Arakaki, Mr. Jacobson, Mr. Reynolds and Mr. Safarik.

SC: Thank you, Mr. Chairman.

CHAIR: Disclosures and request for clarification into their trips.

RW: And other gratuities, golf, dinner, hotel.

CHAIR: I'm not a golfer, but I'm looking at this \$100 gift value for golf...

RW: I thought it was free...

CHAIR: It seems to me that everything I've heard about these areas, is this place is much higher.

BLT: They have...Hokuli'a runs charity golf tournaments where the money goes to charity. Those run \$250...or people who are owners...property owners, what Mr. Reynolds' secretary did is they tried to determine what the cost to the property owner was to have a guest on the premises. And so based on their inquiry to the friend who hosted him...'cause I think they have to rent the golf cart and I think that may have included the lunch, so what they did, is they got an estimate of what it actual costs him to bring Mr. Reynolds as a guest, and that's why it's at the hundred dollars, 'cause it's not one of these charity fund raisers where they open it up to the public at \$250.

CHAIR: If I went to Hokuli'a and paid for a round of golf...

BLT: It's not open to the general public except for charity fundraisers. And in those cases, the money doesn't go to Hokuli'a, it goes to charity.

CHAIR: I see we also have golf at Mauna Lani.

RW: At Hapuna Prince there's a golf huh?

CHAIR: Ah huh.

RW: Arakaki, golf.

CHAIR: Mauna Lani, that's Reynolds.

RW: Right. _____. Okay. So next meeting we'll discuss these?

SC: Yeah.

CHAIR: Okay, now. Disclosures number 2, 3, 4. That's Ashida, Chung, Holshuh, 6, Harry Kim; 7, Andy Levin; 10; 11; Tulang and Tyler. Accept and file?

RW: I don't have those. Do I have those? I have Harry Kim and I have Andy Levin. I don't have Tyler's.

CHAIR: You got that that airline thing.

RW: Oh, that's right, Hawaiian Air...I'm sorry, yeah.

BLT: Mr. Tyler had the card...Aloha...card.

RW: Oh, yeah, that's right. I'm sorry, I'm ready.

CHAIR: Do I hear a motion?

SC: I make a motion to accept and file number 2, 3, 4, 6, 7, 10 and 11 Gift Disclosure Statements.

RW: And I second that.

CHAIR: It's moved and seconded to accept and file 2, 3, 4, 6, 7, 10 and 11. All in favor say aye.

BLT: I did want to make one comment about Mr. Ashida's gift disclosure. I think that he did this out of an abundance of caution. But almost everybody on that list are friends of his that I know he gives gifts to them too.

VOICES: Yes.

BLT: And that was not the intent of the gift disclosure 'cause there's nobody that's a lobbyist or anybody that has business with the County and I think he did it out of an abundance of caution, but that is not the intent of the gift disclosure. So I think if the chair would allow me to, I'd like to follow up. Because otherwise, you would have, if everybody followed Mr. Ashida's lead, you would have hundreds. Everybody Christmas gift that anyone received from anybody. And that was not the intent. And I think he was doing it out of the abundance of caution, but that's not the intent of the gift disclosure.

CHAIR: Well, that shows the strength of his character. Okay. Do we need to initial these?

BLT: No. Just hang on to them.

PC: Maybe the originals?

CHAIR: These are the originals?

BLT: The only thing is I noticed the gift disclosure doesn't talk about where they're on file and those things. And so there may be some

wrinkles in the County Code that need to be addressed in terms of where they are on file and whether they're open for review. 'Cause the Financial Disclosures that are open to the public are on file with the County Clerk. And these I imagine would be with the Office of the Corporation Counsel. And I was thinking that perhaps, we should look at making an amendment and we could discuss it at the next meeting to have them available at the County Clerk's office...

RW: Good idea.

BLT: 'Cause that's more accessible to the public than the Corporation Counsel's Office.

RW: Yeah. Good idea. Put them all in one place. Will you just do your homework on that or...

BLT: Yeah, I'll do the homework on that.

CHAIR: Unfinished Business, we have...

PC: Are you going to do the Rules of the Financial Disclosure Forms?

CHAIR: I'm sorry?

PC: What we added to the Agenda...you were going to talk about the Financial Disclosure Forms.

CHAIR: Oh, that's right, that's right. This is the additional item under New Business.

RW: We need to do this in Executive...

BLT: No, no, no. We're just going to discuss...

CHAIR: What's been happening apparently is that the instruction says you need to file, once per term, I believe.

BLT: Ah hum.

CHAIR: The Long Form.

RW: Ah huh.

CHAIR: And then, if there's no changes then you file the Short Form. The problem is when they're filing the Short Forms or when we're getting the Short Forms, we don't know what the folks have. It's making multiple jobs for us and for everybody else along the line. The concept whether you want to discuss it, should we change the

format so that every year to file a Long Form and do away with the Short Form. And in that way, what's filed this year is complete.

RW: I think it would be simpler for the filer and the doer as well when you're an agency.

BLT: What currently happens in the Short Forms is, that Paulette has to go and dig up the old forms and we've also had confusion when the Forms get mailed out or given to new board members that they think they don't have to file the Long Forms and so it has caused confusion.

RW: I move that we delay the Short Form and just require a Long Form.

BLT: I could draft either a rule change or look at the Code and have something and put it on the Agenda then you can formally adopt it.

CHAIR: Okay, let's do it that way because what I'm concerned about is how the County Code too_____ .

BLT: Yeah. It's need an amendment.

CHAIR: Is it within our prerogative? Is the form set up by us?

BLT: You can recommend the change and then if it's an amendment to the Code, then it goes to the County Council to amend it. And you know, if they're told that it's caused confusion, it creates paperwork and if it's a problem. Or even for the public for the...it's much more accessible for the public to see a full form every year.

CHAIR: So I guess that's...we don't need a motion to do that. We just.

BLT: And I'll put it on the next Agenda.

RW: Okay, I withdraw my motion.

CHAIR: Now, we go on to Unfinished Business. An Informal Advisory Opinion. Does everybody have a copy of it?

SC: Yes.

KI: Yes.

RW: Ah huh.

CHAIR: This is the official response to what we did at the last meeting. It has to do with the gift certificates coming out of Carnazzo. Basically, the decision is the acceptance of the gift cards from

Carnazzo Reporting would not be a violation of the Hawai'i Ethics Code. A motion to approve informal advisory opinion.

RW: I so move.

KI: I second.

CHAIR: It's moved and seconded that the Advisory Opinion on Petition 2004-01 from Mr. Lincoln Ashida, be approved. I'll sign it today and date it today. And we vote on it. All in favor?

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: It's approved.

SC: Do we approve it or adopt it or it doesn't matter?

BLT: It doesn't matter. You can approve it.

SC: Okay.

CHAIR: Okay, we need now a motion to go into Executive Session.

SC: So moved.

KI: Second.

CHAIR: It's moved and seconded to go into Executive Session to review the financial Disclosure Statements of three people.

Moved to Executive Session: 10:55 a.m.

Return to Regular Session: 10:56 a.m.

CHAIR: We're back in Regular Session. It is 10:56. I need a motion to accept and file the financial disclosure statements of Sharon Cislo, Kerry Inouye and Yingwei Ni.

SC: So moved.

RW: Second.

CHAIR: I think we need to do that backwards.

RW: I so move.

SC: Second.

CHAIR: It's moved and seconded that we accept and file the Financial Disclosure Statements of Ms. Cisló, Mr. Inouye and Mr. Ni. All in favor say aye.

SC: Aye.

KI: Aye.

RW: Aye.

CHAIR: The chair votes Aye. It's accepted and filed. That concludes our business for the day. The next regular monthly meeting is scheduled for Wednesday, August 11 at 10:00 at an undetermined location.

SC: I make a motion to adjourn.

CHAIR: Do we need that? It's moved to adjourn.

RW: Second.

CHAIR: It's moved and seconded. All in favor.

SC: Aye.

RW: Aye.

KI: Aye.

CHAIR: Aye. We are adjourned.

(Meeting adjourned at 10:59 a.m.)

Respectfully submitted,

Paulette Cainglit
Secretary

Note: Blank lines indicate inaudible word(s) on audio tape recording.