

HAWAI'I COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

September 8, 2004 ~ 10:21 a.m.

County Council Room

25 Aupuni Street, Hilo, Hawai'i

Present: Leroy Victorine, Chairman
Sharon Cislo, Vice Chairman
Reeve Williams
Diane A. Noda, Deputy Corporation Counsel
Paulette Cainglit, Secretary

Absent: Kerry Inouye

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CHAIR: Let's call the meeting to order. It is about 10:21 a.m. and we have a quorum. And we have nobody from the public that has signed up or present in the room, therefore we do not have statements from the public. Can I have a motion to accept and file the Regular and the Executive minutes of July 14th.

RW: I so move.

SC: I second.

CHAIR: It's been moved and seconded to receive and to file the minutes of the July 14th meeting. All in favor.

SC: Aye.

RW: Aye.

CHAIR: The Chair votes Aye. It is passed. Communications.
Communication 2004-16 is a letter to the Office of the Mayor, from Lincoln Ashida as a reminder of campaign restrictions of County Officials and Employees. Do you all have your copy?

SC: Yes.

RW: Yes.

CHAIR: Any questions on that?

RW: No, and I move to accept and file.

SC: I second.

CHAIR: Communication 2004-15 is a letter to the Office of the Mayor from Lincoln Ashida regarding temporary and legal assignments at the Office of the Corporation Counsel. Do you have your copy of that?

SC: Yes.

RW: Yes. I move to accept and file.

SC: Second.

CHAIR: All in favor.

SC: Aye.
RW: Aye.
CHAIR: Aye. That's passed.

CHAIR: Communication 2004-15 is a letter to all County Boards and Commissions from Lincoln Ashida re the Outline of the State Sunshine Law prepared by the OIP. Do you have your copies?

SC: Yes.

RW: Yes. Move to accept and file.

SC: Second.

CHAIR: All in favor.

SC: Aye.
RW: Aye.
CHAIR: Aye. 2004-19...prior to getting to that, what happened to 16, 17, and 18?

PC: Those will fall under Unfinished Business.

CHAIR: Okay. Thank you. Communication 2004-19, is the Issue of the High Road. Do you have that?

RW: Yes. Move to accept and file.

SC: I second.

CHAIR: All in favor.

SC: Aye.
RW: Aye.
CHAIR: Aye. It passes. Communication 2004-20 is a letter to All County Departments, etc., re Service and Acceptance of A Subpoena. Do you have a copy?

RW: I do.

CHAIR: Questions?

RW: Already answered. I move to accept and file.

SC: Second.

CHAIR: All in favor?

SC: Aye.
RW: Aye.
CHAIR: Aye. It passes. Gift Disclosure Statements...of Mr. Reynolds. We have a response from Mr. Reynolds, and we have a response from Mr. Arakaki and a response from Mr. Safarik. We also have...and I'd like to ask for a Motion to accept the late submission of Mr. Jacobson's response.

RW: I move to accept the late submission.

SC: I second.

CHAIR: Can I make that 2004-...the proper number would be?

PC: Twenty-one. It should be on the bottom corner, twenty-one.

SC: The response is twenty-one...yes, it is twenty-one.

CHAIR: Okay, all in favor of accepting this late submission?

SC: Aye.
RW: Aye.
CHAIR: Aye. It passes and is accepted. I think we can take these 4 in a bunch, because I think their explanations are basically the same.

SC: Excuse me Mr. Chair, we also have Communication 2004-22, which was right after Bob Jacobson's letter...the new telephone numbers for the Corporation Counsel's staff.

CHAIR: Okay, I haven't read that one yet.

SC: It's the new phone numbers.

CHAIR: Oh, the new phone numbers.

RW: Intercom.

CHAIR: Do I have that one.

RW: I move to accept and file that last communication.

SC: Which is...2004-22.

RW: Yes, the phone numbers memorandum.

SC: It's the new one that Paulette gave us. It's behind Bob Jacobson's...

CHAIR: Oh, here...this one.

SC: Yes, that one.

CHAIR: Okay, sixteen, seventeen, eighteen and...

DAN: I'm sorry Mr. Chair, if we I could back up, I'm sorry, I was rustling through the binder trying to find these also. If I could please back up, to the items that would be added to today's agenda, that's communication 2004-21, Bob Jacobson's response and communication 2004-22, Lincoln Ashida's communication with the new telephone numbers. I'm sorry if I missed it, but if we could have a motion to amend the agenda to add these items.

CHAIR: We had that.

DAN: On the _____ also.

RW: Yes we did.

DAN: Oh, thank you.

SC: We also filed 2004-21, but I think we have a motion on the floor for 2004-22 which isn't done yet.

CHAIR: Which is...

SC: It isn't done yet...to file...but the motion is on the floor, I believe.

CHAIR: Which is for which...

SC: That's the telephone numbers...

RW: Yes, I move to accept and file.

CHAIR: Okay, all in favor.

SC: Aye.

RW: Aye.

CHAIR: And I vote Aye. It passes also to be added to the agenda. Going back again, 2004-16, 17, 18, and 22 are...I'm sorry, 21, are responses to our questions on the Financial Disclosures...I'm sorry Gift Disclosure Statements.

RW: And I was the rouser on that, and I'd be happy...I'd like to say that these are satisfactory as to my concerns.

CHAIR: Is there a motion to accept and file?

RW: So therefore, I move to accept and file.

SC: And I second the motion.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

CHAIR: Aye. And it passes. Now, the only thing we have left is 22, which is the new telephone numbers for Corporation Counsel staff.

SC: And we had a motion and we accepted...

RW: Accepted that one.

CHAIR: No, the motion was, as I recall, for us to accept it for the agenda purposes. We accepted it for the agenda, now we need to take action on it.

RW: Okay, I move to accept and file this.

SC: I second.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

CHAIR: Aye. It is passed. Okay, Filing of Financial Disclosure Statements. You folks recall...we had problems with some of the Financial Disclosure Statements that came in the Short Form, because we didn't know what the heck the Long Forms were. And I believe the Long Form is supposed to be submitted along with the Short Form.

PC: A "copy" of the Long Form.

CHAIR: The question from the last time that we sort of kicked and didn't make a decision on was, 'Should we change the short form requirements to, everybody submits the Long Form each year?' Because it causes a lot of clerical research and filing otherwise.

RW: Do you want recommendations on that or ...

CHAIR: Hang on a second, let me find what I'm looking for in the...okay, section 2-91.1 is Financial Disclosures and Disclosures of interests. And in this it talks about under section (d) filing requirements, paragraph (2) reads:

The form for all public financial disclosures shall be as prescribed by the County clerk. The forms for confidential disclosures shall be as prescribed by the County Board of Ethics. The County Clerk and the Board of Ethics shall also provide a short form of disclosure for subsequent annual filings and for disclosures required when leaving office or employment with the County, in those instances where the financial interests of the person disclosing are substantially the same as those reported for the preceding disclosure period.

CHAIR: Our problem had been that we don't know what the Long Form said from before, and we're only getting the Short Form. But as I read this, I don't think we can do away with the Short Form, because the word is "shall" provide.

RW: Is that mandated by Charter or something else?

CHAIR: By this...by the Code of Ethics.

RW: Well, then, we need to perhaps suggest that they need to attach them to the original Long Form.

DAN: I'm guessing that they put the Short Form in to make it...

CHAIR: Simpler.

DAN: Efficient for the person filing.

SC: But it's not efficient to the person who...

RW: Reviewing.

SC: How can we...can we change it to just file a Long Form every year which really isn't that big of a deal...for everybody to fill out a Long Form every year.

DAN: Is it difficult to pull up their Long Form every year?

RW: Where does it go? Where...

PC: What I was encountering was that...well, my opinion is that the secretaries of these Commissions or Boards haven't been instructing their commissioners or board members the correct way of filing it. Some would be, like an initial board or commissioner member would be submitting a Short Form initially and there's no Long Form. And then, maybe they're in for a couple of years and they submit a Short Form, but don't attach the Long Form.

DAN: Who houses the Long Form?

PC: What do you mean houses?

RW: Where is it filed?

PC: Who's the keeper of these?

DAN: Yes, who's the keeper of the Long Forms?

PC: We are.

RW: Corp. Counsel or Ethics?

DAN: The Board of Ethics.

PC: The Board of Ethics holds it. So that's what I've been discovering...that they haven't been submitting their copies. So, I would have to go and pull it out...where sometimes I'm discovering...that there is no Long Form.

RW: Yes. You know what's another glitch too...and I add that these submissions are not necessarily correlated with campaign contributions. And you get the big picture, as you sit on the Board of Ethics, that someone is being compromised...eventually that _____ so there's a disconnect there too. We get this Long Form filing and then campaign contributions go to some other agency. Where do they go...I don't know where it goes.

CHAIR: County Clerks.

DAN: County Clerks.

RW: County Clerks... 'cause the Elections Office is supposed to be available in the Elections Office. _____ We need to do some research on that...just for a housekeeping point of view.

DAN: I'm wondering...I'm sorry, I didn't discuss this with Bobby Jean, I don't think she noticed that that was an agenda item. I'm wondering, possibly whether just a January memo from the Board of Ethics to each of the Board and Commission a reminder, 'cause that's when the new commissioners and board members come on board. You know as a reminder to the new commissioners to submit a Long Form.

CHAIR: _____ I don't know how many of them keep copies of their Long Form.

PC: Very few.

DAN: Yes, I would think.

CHAIR: I think, at this stage of the game, what we need to do...with this coming year is to require the Long Form from everybody and ask them to retain their Long Form. One thing that we've also noticed is that there's been some resistance every once in awhile from some of the people submitting, as to correctly submitting public valuations and so forth down the line. We even had one employee who's required to submit...to state that it's none of our business how much his property is worth. And if that's the case, if that happens again, I can't see us accepting that, because the Code of Ethics is very clear on what's required. He doesn't have to tell us dollar amount. But he shall abide by the Code of Ethics if he wants to operate.

RW: And seriously, Diane, may we ask that you...since you're kind of a pivotal person here, explore...

CHAIR: I guess we'd be asking Pat...

DAN: I'll forward the request to Pat.

RW: Yes, forward it to Pat, to explore the disconnect between a campaign contributions that's reportable to _____. But what we get to see, which are Gift Disclosures...

CHAIR: How would...how, help my mind...right now I'm in somewhat of a vacuum...how would the campaign contribution...

RW: Affect a government employee? A County officer?

CHAIR: No, affect their Financial Disclosure.

RW: Well, it's the Gift Reporting is what we're looking at here...we're looking at Gift Reporting here now right?

CHAIR: No, no.

SC: No...

CHAIR: We're looking at Financial Disclosures.

RW: Oh, right, Financial Disclosures. Now, are all campaign contributions...Gift Disclosure is realize is an additional item, but are all the Financial Disclosure Forms, are they reflective of all the campaign contributions? Could we look at, for example...

SC: I think it's a separate issue.

RW: I think it is.

CHAIR: That's why I asked the question. 'Cause it appears to me that campaign contributions perhaps might be looked as gifts, but that doesn't fit the gift disclosures because there's no specific regulations on campaign contributions. But it's a different issue all together.

RW: A huh.

CHAIR: Now, if on the other hand what you're saying, is if the guy discloses he works for ABC Company and...or income from there...ABC Company is donating to somebody's campaign, that may be a different issue, but that's not for us to be concerned about.

RW: Not the primary individual, the recipient and...I'm saying are we getting...especially if it's an elected official, are we looking at Gift Disclosures and campaign contributions _____, collectively, together?

SC: I think separate issues.

CHAIR: Separately.

CHAIR: I think separately.

SC: All three separately.

CHAIR: I think it has to be separately because that's the way the Charter and I believe the State Charter's also set up...

RW: That's where I'm looking for some research, some legal research Diane, from that angle.

DAN: Okay.

SC: And on Financial Disclosure, what is the problem with filing a Long Form again every year?

RW: Yes.

SC: What is the problem? You just destroy the one from the year before and have everybody file...'cause our lives change, our financial...

RW: Yes.

CHAIR: That's the biggest problem...our lives do change.

SC: And how long do they hold the Short Form? How many years can you file the Short Form?

PC: If you're on a five year term, you file a Long Form and then you file the Short Form every year thereafter.

SC: Your life can change so dramatically.

RW: Right.

SC: Why not just have everybody file a Long Form every year.

RW: That's one purpose..._____

SC: And keep it in one place.

CHAIR: Well, again, the way the Ethics Code is written...

SC: How do we change that to simplify the change?

CHAIR: It would have to be changed at the Council level.

DAN: Well, this actually says, they can file the Short form only if they don't have substantial changes...if it's substantially the same. So if they do have different circumstances, but they're supposed to do the Long Form.

SC: I'm talking about making a bookkeeping...like you said, the housekeeping simpler...like doing it once a year. Seems like it would make it simple for you to file it.

CHAIR: I would like to see the Long Form, but I believe that we have to ask Council to change this...right?

DAN: Yeah...I'm wondering how much...you had mentioned people balking at that resistance...so I don't know whether...but it might be something to consider.

CHAIR: Yes, but, some of the things will come in and it'll be referenced to a property someplace and no entry to the valuation and I think the reason that it's there is because it has the tendency to tell us whether or not this person has any interest...and may be considered in violation.

PC: Who's responsibility is it to make sure that each board member or commissioner submits that form? Is it yours...our responsibility or that Board's secretary?

CHAIR: As it stands here, I think if it's submitted to us, I guess it's ours...but we can always ask the secretary of that Board or...

VOICES: _____.

CHAIR: It would have to be the secretary because the chairs are often are involved in a lot of stuff and for them to go through the nitty gritty of a filing system to see who submits and who doesn't...question

sideways...Do you folks have the capabilities of scanning the documents as they come in to put them into the computer?

PC: No. It's in a computer. It's all maintained physically in a file folder and cabinet.

RW: Paper file.

PC: Paper file.

DAN: And nothing in the near future.

PC: No.

SC: Antiquated system.

RW: _____.

PC: Very.

CHAIR: It seems like something that maybe Corp. Counsel can help with.

DAN: Although, if we developed a form...the Long...the Form on the computer and got emailed to each member...you fill it in...

CHAIR: Assuming you got email...I don't.

DAN: But yeah...assuming if the member has email.

SC: I don't think that would be too much of a problem, 'cause there would be a few people who wouldn't have.

DAN: Yeah, then they could email that in, print it out and copied for the meeting, but then it could be stored in a computer file.

CHAIR: That might be...

SC: That just brings us into the 21st century.

CHAIR: Actually, what I'm looking at, is the question about Commissioner Gray, and what he's saying is, it would be really easy to find on a computer...it would pop up real quickly, 'cause if in my case...I retired last year in December. So in effect, I don't have that income coming in anymore. That's basically what it boils down to, and in effect my filing should have been on the Long Form...and I don't know what I did.

DAN: That's a significant change.

CHAIR: There is a significant change.

DAN: So, this is what I have written down, to hand to Pat. You wanted some legal research and explanation why the different contributions and financial disclosures are all done separately.

RW: Yeah, there's no reconciliation of them.

DAN: Whether there's any problem for issues with requiring or changing it to require the filing of a Long Form annually. Who keeps track, whether all members of a Board or Commission or even employees submit a Financial Disclosure annually. And a proposal for an electronic filing of one. And would this be then added on Unfinished Business for next month also?

RW: Yes.

SC: Yes.

CHAIR: Okay, can we then defer this?

SC: Ah huh.

RW: I move to defer.

SC: Second.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

CHAIR: Aye. It is deferred. New Business is the review of a Gift Disclosure Statement from Toy M. Kindred, Civil Defense Administrator, who is what...on his way to...

RW: Iraq.

CHAIR: Iraq. Everybody has a copy? Anybody have a problem with this?

RW: No.

CHAIR: It seems to me to be relatively clean cut.

SC: Very straight forward.

RW: Yes. I move to accept and file.

SC: I second.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

CHAIR: Aye. It is approved. And now I need a motion to go into Executive Session.

RW: I so move.

SC: I second.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

CHAIR: Aye. We are shortly in Executive Session. Let's take a little break here.

Moved to Executive Session: 10:45 a.m.

Return to Regular Session: 11:03 a.m.

CHAIR: Okay, we have...in Executive Session reviewed the Financial Disclosure Statements of George Harai, Robert Kawakone and Michael Williams. I need a motion to accept and file.

RW: I move to accept and file.

SC: I second.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

CHAIR: The chair votes aye. The Financial Disclosure Statements are accepted and filed. As both of you have stated, we have a problem in October as far as attendance, so maybe I think we need to set our next meeting for November 10th.

SC: Do we have a...are we going to be give a 5th member for our Ethics Committee?

CHAIR: How about a 4th member? She (Cislo) and I are going out.

RW: When? When do you guys go out?

CHAIR: December.

SC: This December.

RW: How come you run a short term?

PC: She's filling in somebody else's term...finishing somebody else's term.

SC: And we can sit on for how long until we're replaced...after...

DAN: Ninety days.

SC: So we can still stay on...

RW: She was a replacement person?

DAN: No. She stepped into the shoes on the term of whoever she replaced.

RW: And then she has another term?

DAN: No. I can _____, but her term, whoever started it, she's ending it for that person...it ends on December 31st this calendar year.

RW: Ah hum.

DAN: How long was this person's term? Five years?

RW: You haven't been on the board for a year, have you?

DAN: So, all of them are five? That was five?

CHAIR: I think it's staggered five.

DAN: Yes. And so if you're serving a 5 year term, you need to be absent from this Board for 2 years, and then you could come back.

CHAIR: Karl Kawahara is interested in coming back.

RW: Oh good.

SC: Who's that?

VOICES: _____.

CHAIR: Karl went out.

SC: But, we can sit on until...if we so choose, until...

CHAIR: If we so choose.

RW: I guess Wendell is the one who's supposed to be watching this huh?

CHAIR: I talked to Wendell last month just prior to the meeting on our meeting day. And I know that she's talked to Wendell and I know that Bobby talked to Wendell.

RW: So, has there been...since everybody's talked to Wendell, is there any action from this?

CHAIR: Wendell is the key man in this situation. My intent is, when this meeting is over, is to go next door to go talk to him again and ask him what the situation is. When I did talk to him, he had a meeting very shortly after ours, I walked in his office with him and he was going to bring it up with the Mayor then. But, I understand that the Mayor wants somebody from the far side of the island as possible.

SC: There should be at least one or two people from Kona side.

CHAIR: Well, yeah, you need a...

VOICES: _____.

SC: Just to get _____

CHAIR: Well, my feeling is that we need somebody from the Kona side and somebody from North Kohala, that area...the North side. Waimea and Kohala area.

RW: Ah huh.

CHAIR: That would represent the North end of the island. I would frankly, would like to see somebody from Puna come in also.

SC: Ah hm.

CHAIR: As a matter of fact, I've talked to a retired police employee...not a police officer mind you, but a retired police employee who would be an excellent addition. She said she was interested...I don't know if she applied or not.

RW: Sometimes I think we need to get the application in our hand or...be sure Wendell puts it in the mail.

CHAIR: Maybe, yeah, that's going to be part of my question when I get there is...has she come in...if not, can I have an application that I can give to her.

RW: Yeah.

CHAIR: Because...she was my secretary and the retired Chief's secretary.

PC: Oh, Shigeko?

CHAIR: Shigeko, yeah. Good lady. Real solid citizen. Quiet, easy going, but with a real good memory.

PC: Yes.

CHAIR: And a good person.

PC: Yes.

RW: And where's she at? Where is she geographically? Puna?

CHAIR: Puna.

SC: You're right. It should be Puna and north side, Kona and Hilo.

RW: That's all the council districts around.

SC: Ah hm.

CHAIR: Ka'u's representation...by population isn't that high. We had one from Ka'u, even with the difficult journey.

VOICES: _____

CHAIR: The lady from Ka'u?

SC: Yes.

CHAIR: The one never came to meetings.

VOICES: _____

CHAIR: She was involved with some schooling project and I think...anyway...

SC: So, you will be researching that...

CHAIR: And then we need a motion to...

RW: Before November, we kinda want to bring this to fruition yeah...we don't want to come in here in November and I find out that the ball is still in Wendell's hands...so what's the plan?

CHAIR: Actually, there isn't anything that we can do...

SC: And what would you recommend?

CHAIR: Other than to talk to people...if people don't apply, accept that they're not going to ...

RW: Okay, we gotta get a couple applications and hand them around or hand them out.

CHAIR: We can do anything we want to along that line...like I said, I can pick up the application...and so forth down the line, but unless they do apply...

RW: How about a public service announcement in the paper. Can we put something in about that? Would you know?

CHAIR: I would hate to do that.

RW: Huh?

CHAIR: I would hate to do that.

RW: Nothing about our commission...about Boards and Commissions in general. Just to remind you...

CHAIR: I think we would be in effect...interfering with government process, as it works...I think it's in their hands to do.

RW: Theirs?

CHAIR: It's their responsibility to get these things done.

RW: Being that who...

CHAIR: Wendell and his group at the Office of Information there. And I think we'll be putting undo pressure on them to do it that way...on...publicly. And can you imagine the applications they would get? Can you register me now...this morning?

RW: No, I haven't had that thought.

CHAIR: I won't go further than that.

DAN: I'll go back and read it now then.

CHAIR: Front page...okay?

RW: Okay.

CHAIR: Can I have a motion to adjourn.

RW: I move to adjourn on that high note.

CHAIR: All in favor.

SC: Aye.

RW: Aye.

CHAIR: Aye. We are adjourned.

(Meeting adjourned at 11:03 a.m.)

Respectfully submitted,

Paulette Cainglit
Secretary

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