

1 COUNTY OF MAUI, STATE OF HAWAII

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11 MINUTES OF THE REGULAR SESSION

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15 Held at the Planning Department Conference Room,

16 Kalana Pakui Building, Wailuku, Maui, Hawaii, commencing at

17 12:30 p.m., on Wednesday, January 11, 2006.

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25 REPORTED BY: Katherine Eismann, RDR, CRR, CSR #439

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2 A P P E A R A N C E S

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4 CHAIRPERSON: CAROLINE BELSOM

5 BOARD MEMBERS: JIM A. STEWART

6 JOHN PELE

7 RANDOL LEACH

8 HARRIETTE L. HOLT

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10 EXCUSED: TAMIO W. IWADO

11 BARRY C. HELLE

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13 DEPUTY CORPORATION COUNSEL: J.D. KIM

14 BOARD SECRETARY: LISA KAHUHU

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1 (Wednesday, January 11, 2006, 12:30 p.m.)

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3 CHAIRPERSON BELSON:: Okay. Let's proceed. This
4 is the January 11th meeting of the Maui County Board of
5 Ethics, and I am calling the meeting to order.

6 First order of business on the agenda is to review
7 the minutes from the December 14th, 2005, meeting. Chair will
8 entertain a motion regarding those minutes.

9 BOARDMEMBER HOLT: I move the minutes be accepted.

10 CHAIRPERSON BELSON: Thank you, Miss Holt. Is
11 there a second?

12 BOARDMEMBER PELE: I will second.

13 CHAIRPERSON BELSOM: Thank you. John seconds.

14 All those in favor, please aye.

15 (Chorus of ayes.)

16 Any opposition?

17 (Silence.)

18 Seeing none, the minutes for the December 14th

19 meeting are approved as submitted.

20 On your agenda for old business, we have no

21 financial disclosures. Under our communication items, we have

22 no specific communication items. What you have before you are

23 drafts of the advisory opinion for Robert Carroll. This is

24 item -- I'm sorry. This is number 058-10. And we did issue

25 an interim ruling on December 30th.

4

1 You have had a chance to review the draft. The

2 Chair will entertain a motion to accept the draft and that

3 will open up for discussion.

4 BOARDMEMBER HOLT: I so move.

5 CHAIRPERSON BELSOM: Thank you. Is there a

6 second?

7 BOARDMEMBER KAUFMAN: Second.

8 CHAIRPERSON BELSOM: Thank you. Moved and

9 seconded with regard to the Advisory Opinion Draft for 058-10.

10 Is there any discussion?

11 BOARDMEMBER HOLT: I wanted to ask if Corporation

12 Counsel prepared this. I think it's a very good advisory

13 opinion by the way. Did you?

14 DEPUTY CORPORATION COUNSEL: Huh?

15 BOARDMEMBER HOLT: Did you prepare this?

16 DEPUTY CORPORATION COUNSEL: I prepared some of

17 it. Most of it was done by Miss Belsom.

18 BOARDMEMBER HOLT: It's a good job.

19 CHAIRPERSON BELSOM: It was a collaborative

20 effort.

21 DEPUTY CORPORATION COUNSEL: She did most of the

22 work and Lisa corrected my spelling.

23 CHAIRPERSON BELSOM: Are we ready for the vote?

24 All those in favor of the motion, which is to approve the

25 Advisory Opinion 058-10, as drafted, please aye.

5

1 (Chorus of ayes.)

2 Seeing no opposition, the Advisory Opinion is

3 approved, and we will execute that opinion before we leave

4 today.

5 Moving to our next item on the agenda, new
6 business, financial disclosures. You should have received, in
7 your packet, two disclosure submittals, one for Donald
8 Medeiros and the second for Traci Villarosa. Both of these, I
9 believe, are updates as opposed to new submittals.

10 The Chair will entertain a motion with regard to
11 acceptance of one or both of these submittals.

12 BOARDMEMBER KAUFMAN: I move that they both be
13 accepted.

14 CHAIRPERSON BELSOM: Thank you. Is there a
15 second?

16 BOARDMEMBER HOLT: I second.

17 CHAIRPERSON BELSOM: Thank you. It has been moved
18 and seconded that the submittals for Donald Medeiros and Traci
19 Villarosa be accepted. Is there any discussion?

20 Seeing none, are all those in favor please
21 indicate by saying aye.

22 (Chorus of ayes.)

23 Any opposition?

24 (Silence.)

25 Seeing none, the submittals by Donald Medeiros and

1 Traci Villarosa are accepted as they were submitted.

2 Boy, we're just rolling along today.

3 BOARDMEMBER STEWART: Good.

4 CHAIRPERSON BELSOM: We are on new business. Item

5 4(c), this is a discussion regarding the Board's receipt of

6 various letters received anonymously throughout the year. I

7 believe this is a matter that was added to the agenda at

8 Mr. Kaufman's request.

9 So, Mr. Kaufman, if you would like to just give us

10 an introduction, some introductory remarks on why you asked

11 for this addition.

12 BOARDMEMBER KAUFMAN: I know that when we get

13 anonymous requests, there's a tendency -- while we do pay

14 attention to them and read through them, is to not give them

15 quite as much weight as we would as to one that's signed.

16 And what I would like to see is to make clear, as

17 much as we can, to the people who are submitting anonymous

18 requests that confidentiality is obtainable and respected.

19 And at least some of these requests are coming from County

20 employees.

21 And, John, correct me if I'm wrong. I believe

22 that every year there's wording that goes out to the County

23 employees or specifically the individuals filling out

24 financial disclosures. And in that, I would like to see us
25 emphasize that names can be withheld in Executive Session and

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1 to encourage that complaints be signed rather than submitted
2 anonymously.

3 And I think it would behoove us to make the effort
4 to make people more comfortable in submitting possible ethics
5 violation complaints.

6 CHAIRPERSON BELSOM: Mr. Kim, do you wish to add
7 anything?

8 DEPUTY CORPORATION COUNSEL: I don't.

9 CHAIRPERSON BELSOM: Any comments?

10 DEPUTY CORPORATION COUNSEL: I don't believe
11 wording about complaints go out to all employees about filing
12 complaints.

13 BOARDMEMBER KAUFMAN: Is there anything that goes
14 out on an annual basis, John?

15 DEPUTY CORPORATION COUNSEL: No.

16 BOARDMEMBER KAUFMAN: Is there ethics training for
17 the employees on an annual basis?

18 DEPUTY CORPORATION COUNSEL: Yes. Every --
19 there's a new employee orientation. So, every Tuesday -- the

20 first Tuesday of each month, every new employee comes in, and
21 I conduct the training on ethics. If it's not me, then it's
22 the former Deputy Corporation Counsel who assisted this Board.
23 And we have a -- we go over all the code
24 violations and actions, and we tell them about where to make
25 the complaints and how to make the complaints.

8

1 BOARDMEMBER KAUFMAN: That would seem to me to be
2 one occasion where it can be emphasized. What about in
3 political years? Isn't there a -- aren't there announcements
4 made?

5 DEPUTY CORPORATION COUNSEL: Yes.

6 BOARDMEMBER KAUFMAN: They are all political
7 years. Let me rephrase that. In election years, there are
8 announcements made with regard to what can and cannot be done
9 on County time and on County grounds, and, if there are
10 complaints, to encourage that they be made not anonymously.

11 DEPUTY CORPORATION COUNSEL: Those -- every
12 election year, prior to the election, information is
13 disseminated by the Clerk's Office. The Clerk of the County
14 is responsible for running the election in the County; and,
15 therefore, it indicates that it's part of his duties to remind

16 candidates, as well as government employees, of the proper
17 behavior during the elections.

18 As far as during elections day and during the
19 polling when there's absentee ballots, there's also --
20 everyone is reminded that within 100 feet or a hundred yards
21 of the polling area, no campaigning can be done, and reminded
22 that if they are wearing their buttons or T-shirts, they have
23 to turn them inside out. There's certain exceptions to that
24 law.

25 Also, there is a flyer that goes out. I believe

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1 Miss Kahuhu has that flyer.

2 MS. KAHUHU: I will past it around.

3 DEPUTY CORPORATION COUNSEL: So, and then also,
4 what's published to the public as well as the candidates,
5 there are footprints for each of the polling areas as to how
6 far away one may have his campaign signs.

7 And, so, with respect to this building, because it
8 is a polling area, it ends right at the parking lot. Not
9 really at the parking lot. It actually extends across the
10 street. So, if you see the HGEA building, the David Trask
11 building, on the day of the elections, you will see those

12 signs either taken down or turned around or covered, because
13 they are too close.

14 BOARDMEMBER KAUFMAN: I'm reading through this,
15 John, and campaign ethics principal number four is one that
16 has been presented to us anonymously in the past, which is
17 don't solicit from persons you inspect, regulate, or over whom
18 you have or exercise direct discretionary responsibility.

19 DEPUTY CORPORATION COUNSEL: I am sorry.

20 BOARDMEMBER KAUFMAN: Did I read that a little
21 quick?

22 DEPUTY CORPORATION COUNSEL: Yeah.

23 BOARDMEMBER KAUFMAN: This is a great document,
24 but what I don't see in here is anything that specifically
25 addresses if you think there has been a violation of what is

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1 in here, how to go about making a complaint to the Ethics
2 Commission, emphasizing that complaints so made can be held in
3 confidentiality, and it's preferred that it's not submitted
4 anonymously.

5 Maybe we don't even want to go right there. Let
6 me think about that a little bit. But to encourage that it be
7 formally a signed complaint.

8 DEPUTY CORPORATION COUNSEL: It may not be as much
9 an ethics issue but rather a campaign violation, an election
10 year violation, for which the County Clerk, as well as the
11 Department of the Attorney General, will police. And that
12 could be result in a criminal prosecution.

13 BOARDMEMBER HOLT: Maybe what we can suggest is
14 that if they want to complain, even anonymously, it could be
15 taken up in Executive Session, by this Board, and then at that
16 time, they could be identified. Is that possible?

17 DEPUTY CORPORATION COUNSEL: Our rules call for
18 complaints -- formal complaints to be a sworn affidavit.

19 BOARDMEMBER HOLT: Oh.

20 DEPUTY CORPORATION COUNSEL: And I think,
21 generally, those are taken -- they may be taken in Executive
22 Session initially. If we find that there's probable cause to
23 go, then it will be public. It will become public.

24 CHAIRPERSON BELSOM: I think the issue that's
25 raised by Mr. Kaufman has to do with how do we educate, in

1 particular, the public about the opportunities to file
2 complaints, and the process, and the fact that, you know, that
3 we would prefer that they sign them rather than send them

4 anonymously, and that the Board may be limited as to what they
5 can do if they come in anonymously. So, and one specific area
6 is the campaign guidelines. And as Al just said, there are
7 other ways to do it.

8 But, you know, we could suggest to State Ethics
9 that they include a process for filing complaints. This just
10 tells them, you know, what they can and can't do.

11 BOARDMEMBER HOLT: That's campaign only.

12 CHAIRPERSON BELSOM: Yes, it's a very narrow area
13 of just the campaigns.

14 BOARDMEMBER HOLT: And that brochure is put out by
15 whom?

16 CHAIRPERSON BELSOM: State Ethics Commission.

17 BOARDMEMBER HOLT: State.

18 CHAIRPERSON BELSOM: State Ethics Commission.

19 BOARDMEMBER HOLT: Maybe we can draft a letter to
20 them making that suggestion, that they include the fact that
21 although they tell you what cannot be done, if they find a
22 violation, what should they do.

23 BOARDMEMBER KAUFMAN: If that's a motion, I will
24 second it.

25 CHAIRPERSON BELSOM: Do you want that to be a

1 motion?

2 BOARDMEMBER HOLT: Okay.

3 CHAIRPERSON BELSOM: Okay. There is a second.

4 The motion is to draft a letter to the State Ethics

5 Commission, referring to their Campaign Ethics Guidelines for

6 Public Officials and Employees, and suggesting that they

7 include a procedure section, at the end, for those who find

8 that there may be a violation of such campaign ethics.

9 Okay. Any further discussion on that motion? If

10 not, all those in favor of the motion please say aye.

11 (Chorus of ayes.)

12 Anyone opposed?

13 (Silence.)

14 No. Okay. The motion carries.

15 BOARDMEMBER KAUFMAN: I thought all phones had to

16 be turned off. Chair.

17 CHAIRPERSON BELSOM: We are back on the record,

18 yes.

19 BOARDMEMBER KAUFMAN: What I asked, and I don't

20 think this requires a motion, John, isn't the training that

21 you do for ethics -- I remember you did a wonderful job with

22 my training, but I can't remember anything about it.

23 And what I would ask is in the training that you

24 give, can you talk about how to file an ethics complaint and

25 the weight given to anonymous versus sworn complaints. And I

13

1 would just ask that of you. I don't think we need a motion.

2 DEPUTY CORPORATION COUNSEL: Okay.

3 CHAIRPERSON BELSOM: John.

4 BOARDMEMBER PELE: Our rules are that any formal

5 complaint has to be signed, right?

6 CHAIRPERSON BELSOM: Yes.

7 BOARDMEMBER PELE: So, I'm thinking that's the

8 reason why anonymous complaints maybe get a little bit

9 overlooked by our own rules. They have to be -- maybe I am

10 not following, but they have to be signed anyway.

11 CHAIRPERSON BELSOM: They have to be.

12 BOARDMEMBER PELE: I think that's the reason why

13 we might just look over anonymous complaints, but there's

14 nothing we can really do. Am I right or --

15 DEPUTY CORPORATION COUNSEL: I think all

16 complaints are looked into. But if they are anonymous, then

17 sometimes the Board doesn't have somebody to go back to to

18 make a more fuller investigation.

19 BOARDMEMBER PELE: Right, right, right.

20 DEPUTY CORPORATION COUNSEL: With a signed

21 complaint, at least -- whether it's formal or informal, we

22 look at them all. But with a signed complaint, be it formal

23 or informal, like a signed affidavit or just a letter, at

24 least we can go back -- or the Board can go back and get more

25 information.

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1 And if there is an unsigned complaint or anonymous
2 complaint, where we cannot go back, and there is not enough or
3 doesn't appear that the Board has jurisdiction, that's why one
4 has less weight than the other. But if it's a signed
5 complaint and it's frivolous, the Board will also, to that
6 end, just say, you know, it's outside of our jurisdiction. We
7 will not investigate or take any action.

8 BOARDMEMBER PELE: And during ethics training,
9 employees or any members, during the ethics training, aren't
10 told that anonymity -- if you don't want to sign, you know --
11 sometimes, as an employer, I tell employees -- as a manager, I
12 tell employees, you can't come to me. You can go to somebody
13 else, and it will be anonymous. But you don't pass that

14 message on during the training. That's not an option for them
15 to be anonymous if they feel that it could lead to problems in
16 their work or --

17 DEPUTY CORPORATION COUNSEL: No, I don't go that
18 far. But I can -- I can draft something and try to
19 incorporate that into the training about filing complaints.
20 Generally, though, it's usually, if they think something is
21 about to occur that they think is unethical, that they should
22 always write to the Board of Ethics and have them brought
23 before the Board before they act upon it.

24 CHAIRPERSON BELSOM: Which would be in the form of
25 requesting an advisory opinion.

15

1 BOARDMEMBER PELE: Right, right, right.

2 CHAIRPERSON BELSOM: Which puts it into a slightly
3 different category. But just so we are clear, for a
4 complaint, there are certain requirements that the Board has.
5 And under its rules, they either have to be sworn under oath
6 or they need to be accompanied by an affidavit.

7 Now, it does say, in the rules, that if there's a
8 failure to comply with that part, that the Board should then
9 notify the person. But if they haven't signed it, then we

10 really don't have anywhere to go.

11 The Board does have the opportunity to initiate
12 its own complaint, and sometimes a filing of an anonymous
13 complaint has sufficient information in it that lays the
14 groundwork for the Board to then pick up from there and say it
15 would like to file its own complaint.

16 I would think that our major concern is reaching
17 the public, because it is the appearance of how our County
18 employees and officials act to the public -- appearance to the
19 public that usually triggers some concern, and then the public
20 may not wish to get involved or does not -- except to the fact
21 of bringing it to our attention. And, so, we usually will
22 receive something anonymously.

23 So, if anyone has some ideas about how to reach
24 the public, in terms of educating them on filing complaints
25 and all like that, it would certainly be something we might

16

1 look into.

2 Any other discussion on the issue? I'm sure it
3 will come up again as we encounter specific instances of
4 anonymous complaints.

5 If not, we have one further item of business in

6 the Regular Session, and that is our election of 2006 Board
7 officers. There is a position for the chair, also for a
8 vice-chair, and for a secretary. These positions will be
9 effective at the March meeting, which means that they will
10 conduct and be responsible for that meeting.

11 So, the floor is now open for nominations for any
12 of these offices.

13 BOARDMEMBER HOLT: I would like to nominate
14 Carolyn Belsom for the Chair.

15 BOARDMEMBER PELE: Second the nomination.

16 CHAIRPERSON BELSOM: Unfortunately, I cannot --
17 unfortunately, my term ends under the rules, and I do have to
18 step down, not only from the position but also from the Board.
19 So, I will not be able to do that. Thank you anyway though.

20 We currently have Barry -- what's Barry's last
21 name again -- Helle as our vice-chair, and Harriet has been
22 our secretary. We also have staff secretary, which does a lot
23 of the work here. So, the position of secretary is not as
24 taxing as the position of Chair. The position of vice-chair
25 is to, of course, conduct the meetings in absence of the

1 chair. So, if you would keep those things in mind.

2 BOARDMEMBER STEWART: Can we nominate someone in
3 their absence, like Barry?

4 CHAIRPERSON BELSOM: Yes, you may nominate anyone
5 from the Board, the current Board.

6 BOARDMEMBER STEWART: Right.

7 CHAIRPERSON BELSOM: And we will be then -- you
8 will have new members coming on board in April, hopefully.

9 BOARDMEMBER STEWART: Barry's term doesn't end
10 this upcoming year, right?

11 CHAIRPERSON BELSOM: Let's see. Lisa, can you
12 tell us when the term ends?

13 BOARDMEMBER STEWART: I figure he's like in
14 waiting, on deck, in case of an assassination or --

15 MS. KAHUHU: 2007 he expires.

16 BOARDMEMBER STEWART: What's that?

17 MS. KAHUHU: 2007.

18 CHAIRPERSON BELSOM: So, if he were the Chair, he
19 would have a year.

20 BOARDMEMBER STEWART: I will nominate him as
21 Chair.

22 CHAIRPERSON BELSOM: Thank you.

23 BOARDMEMBER HOLT: I second the motion.

24 CHAIRPERSON BELSOM: Any other nominations for the

25 chair? Nominations for vice-chair. You can volunteer, too,

18

1 if you want to. Nominate yourself.

2 BOARDMEMBER STEWART: I wish I had time. I can't.

3 BOARDMEMBER KAUFMAN: I will accept the vice-chair

4 nomination if someone makes it, just so I don't have to be

5 secretary.

6 BOARDMEMBER STEWART: I nominate Alan Kaufman as

7 vice-chair.

8 CHAIRPERSON BELSOM: Mr. Pele nominates

9 Mr. Kaufman for vice-chair.

10 BOARDMEMBER LEACH: I will second that.

11 CHAIRPERSON BELSOM: And Mr. Leach seconds that.

12 Any other nominations for vice-chair?

13 Now, the easiest job of all, being secretary,

14 because you have Lisa to help you through all of that. Any

15 nominations or volunteers for the office of secretary?

16 BOARDMEMBER KAUFMAN: John Pele.

17 BOARDMEMBER LEACH: Second.

18 BOARDMEMBER PELE: Oh, no. I am still a young

19 blood.

20 BOARDMEMBER KAUFMAN: You are going to be around

21 for a while, so you can do it.

22 CHAIRPERSON BELSOM: John, there was a nomination

23 and a second to the nomination.

24 BOARDMEMBER PELE: Oh, there was?

25 BOARDMEMBER LEACH: I seconded.

19

1 BOARDMEMBER STEWART: Jumped in real quick.

2 BOARDMEMBER PELE: Okay.

3 CHAIRPERSON BELSOM: Thank you. Wait long enough,

4 they will say they do. Are there any other nominations for

5 any of these offices?

6 If not, the nominations are closed. We can vote

7 as a slate then. All those in favor of the slate of Barry

8 Helle, Board Chair, Alan Kaufman Vice-Chair, and John Pele

9 Secretary, please say aye.

10 (Chorus of ayes.)

11 All those opposed?

12 (Silence.)

13 The slate carries, and they will be in position at

14 the March meeting.

15 And I think that takes us to the end of our

16 Regular Session, and we can -- we have some business in

17 Executive Session, so if we can please have a motion to move
18 us into Executive Session, we can proceed.

19 Miss Holt.

20 BOARDMEMBER HOLT: In reference to the agenda
21 items listed below, one or more executive meetings are
22 anticipated. In particular, the Board of Ethics anticipates
23 it will consider the evaluation, dismissal or disciplining of
24 an officer or employee of the County of Maui, where
25 considerations of matters affecting privacy will be involved.

20

1 The Board may also consult with the Board's
2 attorney on questions and issues pertaining to the Board's
3 powers, duties, privileges, immunities, and liabilities.

4 Therefore, pursuant to Hawaii Revised Statutes
5 Section 92-5(a)(2) and (4), the following items may be
6 considered in Executive Session. The Board may also convene
7 in Adjudicatory Session pursuant to HRS 92-6.

8 CHAIRPERSON BELSOM: That is the motion. Is there
9 a second?

10 BOARDMEMBER STEWART: I second.

11 CHAIRPERSON BELSOM: Thank you. Mr. Stewart
12 seconds. Miss, we can give you a copy of what she just read.

13 All those in favor of moving into Executive
14 Session please say aye.
15 (Chorus of ayes.)
16 Seeing no opposition, we are now in Executive
17 Session.
18 (Regular session recessed 12:55 p.m. Resumed 1:47
19 p.m.)
20 CHAIRPERSON BELSOM: Is there any other business
21 for Regular Session? If not, may I have a motion to adjourn?
22 BOARDMEMBER STEWART: So moved.
23 CHAIRPERSON BELSOM: And a second.
24 BOARDMEMBER LEACH: Second.
25 CHAIRPERSON BELSOM: Thank you. Moved and

21

1 seconded to adjourn from the regular session. All those in
2 favor, please aye.
3 (Chorus of ayes.)
4 Thank you. We are in adjournment.
5 (Adjourned 1:49 p.m.)
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CERTIFICATION

I, KATHERINE EISMANN, CSR 439 and Notary Public
for the State of Hawaii, do hereby certify:

That the proceedings were taken by me in machine

shorthand and were thereafter reduced to print under my
5 supervision by means of computer-assisted transcription; that
the foregoing represents, to the best of my ability, a true
6 and correct transcript of the proceedings had in the foregoing
matter.

7

I further certify that I am not an attorney for
8 any of the parties hereto, nor in any way interested in the
outcome of the cause named in the caption.

9

10 Dated this 21st day of January 2006..

11

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Katherine Eismann, CSR 439
Notary Public, State of Hawaii
My Commission expires 6/23/06

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