

COUNTY OF MAUI, STATE OF HAWAII

BOARD OF ETHICS

REGULAR MEETING

Held at the Planning Department Conference Room,  
250 South High Street, Wailuku, Maui, Hawaii, commencing  
at 12:30 p.m., on Wednesday, March 9, 2011.

Reported by: Tonya McDade, CSR, CRR  
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1 ATTENDANCE  
 2 BOARD MEMBERS PRESENT:  
 Nane W. Aluli, Chair  
 3 Michael Westfall, Vice-Chair  
 Jocelyn A. Bouchard, Secretary  
 4 Sheri-Ann Daniels  
 C. Gretchen Guy  
 5 Frank Moe, Member  
 Donald Sheridan, Member  
 6 Rebecca Woods  
 Marti Wukelic  
 7  
 STAFF PRESENT:  
 8 Gary Y. Murai, Deputy Corporation Counsel  
 J.D. Kim, Interim Deputy Corporation Counsel  
 9 Angela Andrade, Department of Corporation Counsel  
 Lisa Kahuhu, Department of Corporation Counsel  
 10  
 ALSO PRESENT:  
 11 Sheldon Holokai, Jr.  
 Buck Joiner  
 12 Kai Nishiki  
 Sally Raisbeck  
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1 MEMBER WUKELIC: Last meeting, they fall  
 2 apart.  
 3 CHAIR ALULI: The fourth item is public  
 4 testimony. Angela, do we have public testimony?  
 5 MS. ANDRADE: We do. We have four people  
 6 testifying: Sally Raisbeck on Executive Item 3(g); Kai  
 7 Nishiki on Executive Item 3(g); Buck Joiner on Executive  
 8 Item 3(g), and Sheldon Holokai, Jr., on Executive Item  
 9 3(e) and 3(f).  
 10 CHAIR ALULI: Okay. Thank you, Angela.  
 11 Could I ask the testifiers to please state  
 12 their names before they begin? Thank you.  
 13 MS. RAISBECK: My name is Sally Raisbeck. I  
 14 live in Wailuku.  
 15 CHAIR ALULI: Yes. I would also like to  
 16 advise the testifiers that they will have three minutes  
 17 to give their testimony. Thank you.  
 18 MS. RAISBECK: Okay. I gave my testimony in  
 19 written form because I wasn't sure I would be able to  
 20 get it into three minutes. So I hope you all have a  
 21 copy of my written testimony.  
 22 I also sent a letter to the Board about the  
 23 21st of February. And I hope you received that. And I  
 24 didn't see it anywhere on the agenda, but I did send a  
 25 letter to the Board on February 21st. So --

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1 (Wednesday, March 9, 2011, 12:30 p.m.)  
 2 \* \* \*  
 3 CHAIR ALULI: It is 12:30. I would like to  
 4 call the Wednesday, March 9th, 2011 Maui County Board of  
 5 Ethics meeting to order. Board Members who are present  
 6 are Nane Aluli, Chair; Michael Westfall, Vice-Chair;  
 7 Jocelyn Bouchard, Secretary; Sheri-Ann Daniels, Board  
 8 Member; Rebecca Woods, Board Member; C. Gretchen Guy,  
 9 Board Member; Marti Wukelic, Board Member; Frank Moe,  
 10 Board Member; and Donald Sheridan, Board Member.  
 11 The third thing on the agenda are the minutes  
 12 from the February 9th, 2011 Regular Session. Are there  
 13 any changes or corrections? Yes.  
 14 MEMBER SHERIDAN: On Page 53, I think there's  
 15 a typo. It says, "I thing that was Carolann's point  
 16 earlier." I think the word is "think".  
 17 CHAIR ALULI: Page 53 of the Regular --  
 18 MEMBER SHERIDAN: I'm sorry. I'm sorry. It  
 19 was Executive Session. I'm sorry.  
 20 CHAIR ALULI: All right. So no changes?  
 21 Okay. Minutes can be -- not committed. What am I  
 22 looking for?  
 23 MEMBER BOUCHARD: No, that's us.  
 24 CHAIR ALULI: Admitted. Approved. Yes,  
 25 approved. Sorry.

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1 CHAIR ALULI: No, we didn't get a copy of that  
 2 letter.  
 3 MS. RAISBECK: Okay. I sent a copy to your  
 4 attorney, Adrienne Heely, and to Pat Wong. And, anyway,  
 5 I'm sure it will turn up.  
 6 CHAIR ALULI: I'm very sorry, it hasn't gotten  
 7 down to the Board. Angela, if we could check on that to  
 8 find out where that is, so that it can get down to the  
 9 Board Members, that would be appreciated.  
 10 MS. ANDRADE: I will.  
 11 MS. RAISBECK: Thank you. You have a very  
 12 full agenda today, especially in Executive Session. And  
 13 I would appreciate it if, at the end of my testimony,  
 14 you could tell me whether you expect to get to the item  
 15 about Mike White today because I do have written -- I  
 16 have documentation for what I said in my written  
 17 testimony. And I didn't make multi copies, but I will  
 18 turn it into the secretary if you're planning on not  
 19 deferring today. So let me just go ahead. Okay.  
 20 It's about Mike White. And Kai Nishiki and  
 21 Buck Joiner filed the complaints. Under your rule,  
 22 04-101-52(d), on informal hearings, the Board in its  
 23 discretion, may interview the Complainant, other County  
 24 officers or employees, or any other person the Board  
 25 believes may have information relevant to its

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1 consideration of the complaint during the informal  
2 hearing. I hope you would call on me because I feel I  
3 have unique information about this matter. And I won't  
4 have time in three minutes to give it to you.  
5 First of all, I was the person who brought a  
6 complaint against Goro Hokama, in 1989, which resulted  
7 in the Board of Ethics declaring that he had a conflict  
8 of interest and should not vote on any matters relative  
9 to Lanai -- to -- pardon me -- to Castle & Cooke. Well,  
10 Castle & Cooke owned 98 percent of Lanai, and Goro had  
11 been the representative of Lanai for 35 years. So you  
12 can imagine how difficult it was for that board to find  
13 him in conflict, but they did.  
14 And then there's a complicated history after  
15 that, because Goro appealed and it went to the District  
16 Court -- or the Circuit Court. And then it went -- he  
17 appealed to the Supreme Court. And it went there, and  
18 they found some -- some procedural problems and sent it  
19 back again. So it's complicated. But I think you can  
20 see what that Board -- and I do have that -- material  
21 about that in this, which I will take to the secretary.  
22 My second point, that I, apparently, have  
23 unique information about is who owns Kaanapali Beach  
24 Hotel and who owns Kaanapali Properties. This question  
25 occurred to me Friday afternoon. And I started looking,

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1 and I was astounded to find out that they both are owned  
2 by Hong Kong billionaires who have --  
3 MS. ANDRADE: One minute left, Chair.  
4 MS. RAISBECK: -- an incredible financial  
5 empire of who knows how many companies.  
6 And I also want to make the point to you,  
7 based on State Ethics Board rulings and, probably, other  
8 precedents I could find, that if someone works for a  
9 subsidiary of a big company -- excuse me -- and is found  
10 to have a conflict in voting for that, that conflict  
11 applies to the parent company and to any subsidiary of  
12 that parent company. Now, unless Mike is able to give  
13 you a list of all the subsidiaries of this Shaw Run --  
14 Sir Run Run Shaw in Hong Kong, it will be sort of  
15 impossible to tell when he's voting on a matter that he  
16 has a conflict.  
17 MS. ANDRADE: Time.  
18 MS. RAISBECK: Okay. So --  
19 CHAIR ALULI: Thank you, Angela.  
20 MS. RAISBECK: I have -- I have documentation  
21 about the ownership, which I will give to the secretary.  
22 And if you have any questions, I'd be glad to answer  
23 them.  
24 CHAIR ALULI: Are there any questions for the  
25 testifier?

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1 (Silence.)  
2 CHAIR ALULI: No. Thank you, Ms. Raisbeck.  
3 Our next testifier, Angela.  
4 MS. ANDRADE: That would be Kai Nishiki.  
5 CHAIR ALULI: Ms. Nishiki, if you would please  
6 state your name, and you have three minutes to testify.  
7 Thank you.  
8 MS. KAI NISHIKI: Thank you. Good afternoon,  
9 Board Members. I'm Kai Nishiki.  
10 In the interest of time, I am providing a copy  
11 of my verbal testimony and submitting written testimony  
12 which includes all the coded rules and attachments.  
13 My first request is that this Board will begin  
14 with a public examination of Mike White's financial  
15 disclosure statement, determine that a conflict exists,  
16 and advise him of corrective action, which I believe  
17 should take place in an open meeting, according to your  
18 Rule 04-101-36(b) and consistent with past Board  
19 examinations. After examination and determination with  
20 the words "shall advise," this Board is charged with the  
21 responsibility to advise that a conflict exists and  
22 offer corrective action.  
23 The statement and advice of Ms. Heely, Deputy  
24 Corporation Counsel, on a past examination, provides  
25 clear guidance as to your rules and your duties. In the

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1 Rules, Code of Ethics, and advisory opinions are found  
2 many references to the use of the word "may." There are  
3 also important and substantive uses of the word "shall."  
4 It is apparent that while a conflict of interest, or the  
5 appearance of one, need not be clearly defined, merely  
6 exist, what the Board of Ethics and our elected  
7 officials shall do are very clear.  
8 Second: Examine my complaint, along with  
9 evidence presented today, determine that violations have  
10 occurred and take appropriate action according to the  
11 Code of Ethics and your rules.  
12 Third: Since my complaint was filed on  
13 January 27th, and there are additional alleged  
14 violations, I urge the Board to address these violations  
15 either through an investigation and complaint initiated  
16 by the Board of Ethics, under Rule 04-101-51, or I ask  
17 that the Board advise me that they will not address  
18 them. And I will file an additional complaint  
19 referencing the noted violations.  
20 The first duty of an elected official is to  
21 the general public. If there were any possibility of a  
22 conflict of interest in regard to the introduction of a  
23 resolution such as this, an advisory opinion should have  
24 been sought by Mike White from both Corporation Counsel  
25 and the Board of Ethics before authoring, advocating for

1 and, finally, voting on the resolution in question.  
 2 Over the years, quite a few council members  
 3 have requested an advisory opinion before taking  
 4 official action when a possible conflict was present.  
 5 Your own Chair of the Board of Ethics and Corporation  
 6 Counsel both disqualified themselves from discussion of  
 7 this complaint because of a conflict of interest or the  
 8 appearance of impropriety.  
 9 Mike White has often stated that he has over  
 10 40 years of experience in the visitor industry and feels  
 11 in his heart there is no conflict of interest  
 12 whatsoever, that he has the best of intentions --  
 13 MS. ANDRADE: One minute, Chair.  
 14 MS. KAI NISHIKI: -- and is not after personal  
 15 financial gain. Unfortunately, what he feels in his  
 16 heart, what his intentions are, and whether he is after  
 17 personal financial gain are not the standard.  
 18 The facts remain, he has chosen to retain his  
 19 position as general manager of the hotel, continue to  
 20 serve as a director on many visitor industry boards to  
 21 which he has fiduciary responsibilities. And these same  
 22 boards regularly lobby the Council to lower hotel  
 23 property taxes and fund the MVB. Mike White ignored the  
 24 established process that provides the public with  
 25 confidence that government officials remain free from

1 conflicts of interest and the appearance of impropriety  
 2 while serving our County.  
 3 Thank you.  
 4 And, in closing, I just want to ask the Board  
 5 to please address all of the issues surrounding this  
 6 conflict of interest so that we don't have to  
 7 continually come back before the Board. It's a really  
 8 big picture. And I hope that the big picture in the  
 9 following years that this Board's advisory opinion will  
 10 affect will be taken into consideration. Thank you.  
 11 CHAIR ALULI: Thank you, Ms. Nishiki.  
 12 Are there any questions for Ms. Nishiki from  
 13 any of the Board Members?  
 14 (Silence.)  
 15 CHAIR ALULI: Thank you very much,  
 16 Ms. Nishiki.  
 17 MS. KAI NISHIKI: Thank you.  
 18 CHAIR ALULI: The next testifier.  
 19 MS. ANDRADE: Mr. Joiner.  
 20 CHAIR ALULI: Mr. Joiner, please state your  
 21 name, and you have three minutes. Thank you.  
 22 MR. JOINER: Buck Joiner testifying as an  
 23 individual.  
 24 Fairness and honesty is all that I ask for.  
 25 "The Maui News" editorial yesterday blasted me as

1 opposing the Maui visitor industry. Previously, they  
 2 accused me of being critical of the Maui Visitors  
 3 Bureau. Neither is true. I oppose County public  
 4 funding of the wealthiest business sector of our economy  
 5 because the visitor industry refuses to support the MVB,  
 6 its very own trade representation organization.  
 7 But this hearing has nothing to do with that.  
 8 This is an ethics issue about whether an elected  
 9 official has the right to direct public funding to a  
 10 specific private sector that will benefit him.  
 11 There is no question that Mike White has been  
 12 the most outspoken supporter of the visitor industry  
 13 before and since being elected. He clearly states in  
 14 his financial disclosure to this Board that he lobbied  
 15 before the County Council for MVB funding prior to being  
 16 elected. As the acknowledged leader of his industry,  
 17 that is right and proper. However, as an elected  
 18 official, he has a fiduciary responsibility to represent  
 19 all citizens equally and not to favor his own sector.  
 20 To show proof of the conflict of interest, I  
 21 will quote Mike White during the County Council meeting  
 22 of February 18th. In his own words, at 11:01: "I  
 23 receive no direct or indirect benefit greater than any  
 24 other person whose job is supported by the visitor  
 25 industry." Mike White indicates his income is dependent

1 upon the success of the visitor industry and receives a  
 2 total annual compensation on the order of \$300,000, or  
 3 more, as General Manager of the Kaanapali Beach Hotel  
 4 and Kaanapali Properties. Mike does receive a much  
 5 greater benefit than most everybody else in the visitor  
 6 industry.  
 7 Quoting him again, at 11:05: "Our job is to  
 8 help grab market share from other destinations. MVB has  
 9 done an outstanding job of assisting with this effort."  
 10 It is clear from the statement that "our" refers to the  
 11 visitor industry, which Mike White is obviously  
 12 associated with, and the MVB funding supports hotels and  
 13 the visitor industry.  
 14 11:06: "Maui County consistently leads the  
 15 other neighbor islands in visitor spending. I credit  
 16 the effectiveness of MVB's strategic marketing" --  
 17 MS. ANDRADE: One minute.  
 18 MR. JOINER: -- "expenditures of hotels with  
 19 that success." Another clear statement that MVB and  
 20 hotels are partners in marketing and the hotels benefit  
 21 from it.  
 22 At 11:44: "The blitzes that were done in  
 23 conjunction with HVB resulted in an expenditure, I  
 24 believe, on Maui's behalf of about one million. MVB put  
 25 some money into that and other members of the visitor

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1 industry did so as well. Documented return on  
 2 investment was well over \$114 million of new spending  
 3 over and above the previous year." Another clear  
 4 statement that MVB expenditures directly benefit the  
 5 visitor industry.

6 I request that the -- that the hearing,  
 7 whenever you hold it, be open to the public. Only those  
 8 with something to hide or be ashamed of would insist on  
 9 it being behind closed doors. And according to the  
 10 rules, Mike White is the only person who can request it  
 11 actually be an open hearing.

12 Mahalo nui loa.

13 CHAIR ALULI: Are there any questions for Mr.  
 14 Joiner?

15 (Silence.)

16 CHAIR ALULI: Mr. Joiner, thank you very much.

17 MR. JOINER: Okay. Let me -- let me clarify.  
 18 The quotes -- and I hope that -- this has already been  
 19 passed out? Okay. I have the times of those quotes.  
 20 And that is included on the DVD of the -- the Council  
 21 meeting.

22 And did you give them the 2-18, Kai? Did you  
 23 give them the 2-18 meeting?

24 MS. KAI NISHIKI: Yes.

25 MR. JOINER: Okay. So you already have that

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1 DVD. So you can watch it and clarify that my quotes are  
 2 exact.

3 Thank you.

4 CHAIR ALULI: Thank you, Mr. Joiner.  
 5 Our next testifier?

6 MS. ANDRADE: Sheldon Holokai, Jr., Item 3(e)  
 7 and 3(f).

8 CHAIR ALULI: Please state your name. And you  
 9 know you have three minutes to testify. Thank you.

10 MR. HOLOKAI: Good afternoon, Board Members.  
 11 My name is Sheldon Holokai. I'm a Fire Captain,  
 12 Department of Fire and Public Safety. I'm here to  
 13 testify on the matter regarding the interview questions  
 14 that may have been given to a candidate prior to his  
 15 promotional interview.

16 First off, I wanted to give you some  
 17 background information on the fire service in general  
 18 and its structure in regards to rank.

19 A Fire Officer I is a Fire Captain. He's a  
 20 supervisor. He normally has four to five personnel  
 21 under his command. He's the guy out in Hana, Kula,  
 22 Napili, who responds to the fire calls, the brush fires,  
 23 emergency -- medical emergencies, fire alarms, things of  
 24 that nature.

25 You have a Fire Officer II, which is a

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1 battalion chief, he supervises the captains within his  
 2 battalion. And he also takes care of lower level  
 3 management duties.

4 A Fire Officer III is an assistant chief.  
 5 He's -- he's in charge of the administrative and  
 6 operational functions within the Department.

7 Then you have the Fire Officer IV, which is  
 8 the Fire Chief. He's the director of our Department.  
 9 He's appointing authority and he's, basically, in charge  
 10 of it all.

11 Also, in the Fire Service, there's -- there is  
 12 a nationally-recognized organization called the National  
 13 Fire Protection Association, the NFPA. They have set  
 14 the national standards and requirements for the Fire  
 15 Service. And there are hundreds of those standards that  
 16 cover things like sprinkler systems, heliports,  
 17 fireworks displays, storage of pesticides, SEBs, which  
 18 are the tanks that we use on our backs when we enter  
 19 burning structures. These standards are there to ensure  
 20 safety for the people of all communities, public and  
 21 private industry as well as the emergency responders.

22 One of those standards is the NFP 1021  
 23 standard for fire officer professional qualifications.  
 24 This standard has the requirements that need to be  
 25 fulfilled in order to be qualified as a Fire Officer I,

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1 a Fire Officer II and so forth. These standards are  
 2 stringent to the point that few departments throughout  
 3 the nation -- and there's thousands of departments --  
 4 are able to get their full membership qualified through  
 5 this level.

6 For example, for a Fire Officer I, some  
 7 general prerequisite knowledge, he needs to know the  
 8 organizational structure of the department, geographical  
 9 configuration and characteristics of response district,  
 10 departmental operating procedures for administration,  
 11 emergency operations, incident management system and  
 12 safety, departmental budget process, information  
 13 management. There's dozens of requirements that a Fire  
 14 Officer I, a fire captain, needs to know.

15 MS. ANDRADE: One minute, Chair.

16 MR. HOLOKAI: For the Maui Fire Department  
 17 standards, to be a fire captain, you need to have eight  
 18 years firefighting experience along with two years of  
 19 education, or you can substitute 10 years of  
 20 firefighting experience. For a battalion chief, you  
 21 need to have been a fire captain for a minimum of three  
 22 years.

23 Along with the time-based requirement, you  
 24 need to take an examination and an interview. All these  
 25 things get scored along the way. And in the end,

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1 hopefully, you come up with a top candidate who then  
 2 gets promoted.  
 3 The candidate who may have had the questions  
 4 prior to this interview did not even show he could  
 5 perform up to our standards. You can forget about NFPA  
 6 standards. He couldn't perform up to our standards. He  
 7 was deceptive and used confidential information and was  
 8 not promoted under his own merit.  
 9 My wish for this situation will benefit the  
 10 community of Maui with all the members of the fire  
 11 department.  
 12 First, I humbly ask that you continue with  
 13 your inquiries to find out if there was any type of  
 14 violation. And, if so, please take corrective action  
 15 against those involved.  
 16 Secondly, please review and perform the  
 17 examination process currently being used by our  
 18 Department and to prevent this type of activity from  
 19 occurring again. I would like to start to see  
 20 candidates who get promoted based on their intelligence  
 21 and aptitude while using fairness and impartiality in  
 22 the process.  
 23 Thank you for your consideration.  
 24 CHAIR ALULI: Are there any questions for the  
 25 testifier from the Board?

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1 MEMBER MOE: One. What's your capacity with  
 2 the Fire Department?  
 3 MR. HOLOKAI: I'm a fire captain.  
 4 MEMBER MOE: Thank you.  
 5 CHAIR ALULI: Any other questions?  
 6 (Silence.)  
 7 CHAIR ALULI: No. Thank you very much.  
 8 MR. HOLOKAI: Thank you.  
 9 CHAIR ALULI: Angela, that's it?  
 10 MS. ANDRADE: That's it.  
 11 CHAIR ALULI: That's it, okay. Thank you very  
 12 much.  
 13 We'll move on to Item Number 5, farewell  
 14 reading of resolution for existing Board Members Nane  
 15 Aluli and Jocelyn Bouchard.  
 16 MEMBER BOUCHARD: I believe that's exiting.  
 17 CHAIR ALULI: Exiting. Sorry. Okay. I'll  
 18 emphasize that, exiting. What did I say, "existing?"  
 19 Exiting Board Members Nane Aluli and Jocelyn Bouchard.  
 20 MR. MURAI: Thank you, Mr. Chair. This is a  
 21 resolution of the Maui County Board of Ethics. And it  
 22 reads as follows:  
 23 "Whereas the Maui County Board of Ethics was  
 24 established by the Charter of the County of Maui in  
 25 1977; and

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1 Whereas, since April 2006, Jocelyn Bouchard  
 2 has served as a Member of the Maui County Board of  
 3 Ethics; and  
 4 Whereas, Jocelyn Bouchard has served the Maui  
 5 County Board of Ethics with dedication and provided  
 6 valuable guidance in serving the needs of the employees  
 7 and people of Maui County; and  
 8 Whereas Jocelyn Bouchard's term of office  
 9 expires on March 31st, 2011; now, therefore  
 10 Be it resolved, by the Maui County Board of  
 11 Ethics, that it does hereby express its deepest  
 12 gratitude and appreciation to Jocelyn Bouchard for her  
 13 service during the past five years, and does hereby  
 14 extend his best wishes in her future endeavors; and  
 15 Be it further resolved that copies of this  
 16 Resolution be transferred to the Honorable Alan Arakawa,  
 17 Mayor of the County of Maui, and the Honorable Danny A.  
 18 Mateo, Chairman of the Maui County Council.  
 19 And I will be circulating this Resolution for  
 20 signature by the Members.  
 21 CHAIR ALULI: Thank you, Jocelyn.  
 22 (Applause.)  
 23 MR. MURAI: And I believe we have a  
 24 presentation for Ms. Bouchard.  
 25 MEMBER BOUCHARD: Thank you. Thank you.

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1 MR. MURAI: We also have another Resolution,  
 2 Mr. Chair. And it is entitled Resolution of the Maui  
 3 County Board of Ethics, and it reads as follows:  
 4 Whereas the Maui County Board of Ethics was  
 5 established by the Charter of the County of Maui, 1977;  
 6 and  
 7 Whereas, since April 2006, Nane Aluli has  
 8 served as a Member of the Maui County Board of Ethics;  
 9 and  
 10 Whereas Nane Aluli served the Maui County  
 11 Board of Ethics with dedication and provided valuable  
 12 guidance in serving the needs of the employees and  
 13 people of Maui County; and  
 14 Whereas Nane Aluli's term of office expires on  
 15 March 31st, 2011; now, therefore  
 16 Be it resolved by the Maui County Board of  
 17 Ethics, that it does hereby express its deepest  
 18 gratitude and appreciation to Nane Aluli for service  
 19 during the past five years, and does hereby extend its  
 20 best wishes in his future endeavors; and  
 21 Be it further resolved that copies of this  
 22 Resolution be transmitted to the Honorable Alan Arakawa,  
 23 Mayor of the County of Maui, and the Honorable Danny A.  
 24 Mateo, Chairman of the Maui County Council.  
 25 And I will also be circulating this for

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1 signature of the Board. And we also have a presentation  
 2 for Mr. Aluli.  
 3 CHAIR ALULI: Thank you very much. Thank you.  
 4 (Applause.)  
 5 CHAIR ALULI: Thank you very much. Thank you,  
 6 Board. I won't give you my five-minute speech. So  
 7 we'll go --  
 8 VICE-CHAIR WESTFALL: Three minutes.  
 9 CHAIR ALULI: Three minutes, okay. Okay.  
 10 Let's move on to Item Number 6 on the agenda, Old  
 11 Business, Item (a), Financial Disclosures. We have  
 12 financial disclosures for Matsui and Pontanilla. Oh,  
 13 yes, and Savage and Victorino. There were four, right?  
 14 Are there any changes that need to be made to those  
 15 financial disclosures? Any Board Member see -- if there  
 16 aren't any changes or corrections, can I get a motion  
 17 from a Board Member to acknowledge receipt of these  
 18 financial disclosures?  
 19 MEMBER SHERIDAN: I so move.  
 20 CHAIR ALULI: We have to go through each one  
 21 of them, please.  
 22 MEMBER SHERIDAN: I move that the financial  
 23 disclosures of Patrick Matsui and Joseph Pontanilla and  
 24 Jeremiah Savage and Mike Victorino be passed.  
 25 MEMBER DANIELS: Second.

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1 CHAIR ALULI: All in favor?  
 2 (A chorus of ayes.)  
 3 CHAIR ALULI: Any nays? No. Okay. These  
 4 financial --  
 5 MEMBER MOE: May I?  
 6 CHAIR ALULI: Yes.  
 7 MEMBER MOE: I don't know if this is an  
 8 appropriate time for comments, but I would like to  
 9 mention that in Mr. Mateo's disclosure --  
 10 Mr. Pontanilla's disclosure and Mr. Victorino's  
 11 disclosure, they -- they priced out the gifts they  
 12 received. And I guess what I have is a "how high is up"  
 13 question. Mr. Mateo received \$1,120 worth of, I believe  
 14 it was tickets, tickets to Kapalua Open and the Maui  
 15 Invitational. Mr. Pontanilla received \$2,600 worth of  
 16 basketball tickets. Mr. Victorino is a little hard to  
 17 describe because I think he's talking about price per  
 18 round of golf. And it ranges at somewhere between \$500  
 19 and \$1,780 worth of gifts. My question is, where is the  
 20 appropriate line?  
 21 MEMBER DANIELS: I think we're just asking  
 22 them for --  
 23 CHAIR ALULI: That's what my understanding is,  
 24 that, in the financial disclosure, what we're asking in  
 25 that financial disclosure is that they advise in that

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1 statement that they have received these. I don't  
 2 think -- as far as I'm familiar with the Code, I don't  
 3 think there's any up side to it.  
 4 MEMBER DANIELS: There's no price assigned to  
 5 it.  
 6 CHAIR ALULI: There's just an acknowledgment  
 7 of it. Gary, is there --  
 8 MR. MURAL: Well, the Board does have within  
 9 its authority the ability to issue, you know, cautionary  
 10 letters to people who file these disclosures in case the  
 11 Board has any concerns. But the Board should also  
 12 consider whether there is -- you know, receiving a gift  
 13 is one thing, the Board needs to consider whether they  
 14 may be in a violation of the Code of Ethics. In other  
 15 words, was there a solicitation, was there, you know,  
 16 quid pro quo kind of exchange for either reward for a  
 17 past action or enticement for future action. That's the  
 18 real question. Not, you know, whether the gift was  
 19 received -- was received or not.  
 20 MEMBER MOE: Exactly. I agree 10-4.1.a says  
 21 if it can be reasonably inferred the gift is intended to  
 22 influence the officer or employee. Now, I don't know  
 23 what their connection is to EA Sports, the Maui  
 24 Basketball Tournament, and whatever the third one was.  
 25 I pose a question, where do you draw the line?

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1 MEMBER SHERIDAN: Didn't we have a similar  
 2 discussion in a previous meeting as to how high a County  
 3 employee -- how high a gift should be? I think there is  
 4 -- that is discussed.  
 5 CHAIR ALULI: Well, if we take a look at the  
 6 Code -- and if I read this correctly, the Code would be  
 7 4-101-32 -- a candidate for elective office shall file a  
 8 disclosure, a new public financial disclosure shall be  
 9 filed. It -- as Sheri-Ann pointed out, there is nothing  
 10 in the Code that really clarifies that amount. Now, I  
 11 would perhaps suggest that, at future meetings, the  
 12 discussion be had as to whether amounts should be  
 13 established and then put into the Code. And especially,  
 14 Michael, since the Code is now being reviewed and is  
 15 going to be put before the County Council, perhaps this  
 16 is an issue that should be discussed and more  
 17 clarification provided.  
 18 MEMBER MOE: One last comment and I'll leave  
 19 it. Advisory Opinion 00A-I that we received from  
 20 Patrick Wong, the individual in that case was given a  
 21 pass for green fees for a year at a local golf club.  
 22 The Board noted that the gift had substantial value and  
 23 there was reasonable inference the gift was intended to  
 24 reward and influence. So they suggested or told them  
 25 not to accept the gift. I guess that's the end of my

7 (Pages 22 to 25)

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1 point. I think it's something we should give some  
 2 consideration to.

3 CHAIR ALULI: I would, then, ask the Board if  
 4 it's something -- we can at least ask the Board, can't  
 5 we, Gary, if it's something they can agendize for a  
 6 future meeting?

7 MR. MURAI: You mean the -- I'm sorry. What  
 8 specifically?

9 CHAIR ALULI: Discussion of the putting limits  
 10 within the Code.

11 MR. MURAI: Sure.

12 VICE-CHAIR WESTFALL: Let me add something. I  
 13 think, is the question -- and I'll ask Mr. Moe, I guess,  
 14 the question here is that the total amount in an  
 15 aggregate? Because we have a limit on the individual  
 16 gift, but are you questioning in the aggregate? And I  
 17 think, Mr. Sheridan, that last one that we had questions  
 18 on, I think the uncomfortableness was there was a whole  
 19 lot of tickets. It wasn't one, it was about 40 or 50.  
 20 I mean, so the aggregate amount was quite high, but,  
 21 individually, it was all under 50. So, I guess, to  
 22 clarify the question for the Rules Committee, for Gary,  
 23 the question, should we have a limit on aggregate  
 24 amount?

25 MEMBER MOE: Well, in this case, these cases,

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1 it's just Kapalua Open tickets and then the Maui  
 2 Invitational Basketball Tournament. And the tickets  
 3 were valued at \$1,120, which --

4 MEMBER SHERIDAN: Mike, if you're looking for  
 5 a yes or no answer on that, I say, yes, we should have a  
 6 limit.

7 VICE-CHAIR WESTFALL: Okay.

8 MEMBER WUKELIC: My question on this is, at  
 9 the time the gentleman was in another position within  
 10 the department, when he received these tickets. So I  
 11 don't know, did he have to file this report last year,  
 12 because he was appointed to his current position on  
 13 1-2-11, and the tickets were given to him last fall?

14 CHAIR ALULI: Good point, before he even was  
 15 in the position.

16 MEMBER WUKELIC: Right. He did work for -- I  
 17 believe he may have been employed by them before, I'm  
 18 not sure. But I don't know whether it was a position  
 19 that a disclosure was needed or not. So he's basically  
 20 saying, okay, I have this job and, by the way, last fall  
 21 somebody gave me this gift.

22 CHAIR ALULI: I would suggest at this point,  
 23 since there are issues that -- and this has come up  
 24 before, regarding gifts, that this discussion needs --  
 25 further discussion needs to be had and probably more

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1 clarification put forth. And I would suggest at this  
 2 point that we ask that -- at a future meeting that this  
 3 be part of an agenda -- be an agenda item and that the  
 4 discussion take place at that point. At this time we're  
 5 not in a position to go into any real detail or depth on  
 6 this particular item. What we could do is not  
 7 acknowledge receipt of the specific financial  
 8 disclosures where there are questions, for instance,  
 9 where you recognized the fact that the gifts were  
 10 received, seemingly, before he actually took the  
 11 position, if you want more clarification on that, we do  
 12 not acknowledge receipt of these at this point, we go  
 13 back and ask the individuals for more clarification on  
 14 those items. We'd have to -- yeah, we'd have to reverse  
 15 the vote on that to -- because we didn't have the  
 16 discussion before the vote, isn't that right?

17 MR. MURAI: I believe the Board did  
 18 acknowledge receipt already, right?

19 CHAIR ALULI: Yes.

20 MEMBER MOE: I have no objection. I was  
 21 stating a rhetorical question.

22 CHAIR ALULI: So at this point, the  
 23 acknowledgments have been acknowledged and accepted.  
 24 And if there is further discussion to be had regarding  
 25 the long-term Code issue, then I think that should be

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1 done at another meeting. Okay. So we will acknowledge  
 2 receipt of these disclosures for the parties that were  
 3 mentioned.

4 Let's go on to Item Number (b), Communication  
 5 Items. There aren't any.

6 (c), Report from the Rules Review  
 7 Subcommittee. Michael, you want to say anything at this  
 8 point?

9 VICE-CHAIR WESTFALL: I don't have anything.  
 10 Gary, did you? I did see an email, but maybe Gary can  
 11 report.

12 MR. MURAI: Yeah, I can. My understanding is  
 13 that the Rules Revision Subcommittee does have a draft  
 14 of proposed rule changes, but they're not, I guess, ripe  
 15 for moving further because what we need to do is wait on  
 16 the Council to enable -- you know, pass the legislation  
 17 that will enable us to do that. So, in other words,  
 18 we're getting at bit ahead of the County Council.

19 VICE-CHAIR WESTFALL: Okay.

20 MR. MURAI: But, you know, the Rules Committee  
 21 has met. Adrienne has graciously agreed to continue to  
 22 hanchu that committee. And we are just waiting on  
 23 Council action.

24 CHAIR ALULI: Okay. Good. Any of the Board  
 25 Members have any questions about the Rules Subcommittee?



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1 (Silence.)  
 2 CHAIR ALULI: No. Okay. Thank you very much.  
 3 Let's move on to New Business. Item Number  
 4 (a), Financial Disclosures, we have two; John Kim and  
 5 Franklin Silva. Do I have a motion -- do I have a  
 6 motion from a Board Member to accept or are there any  
 7 changes to the financial disclosures for Mr. Kim and  
 8 Mr. Silva?  
 9 MEMBER BOUCHARD: I'll make a motion to  
 10 acknowledge receipt of the financial disclosures of Kim  
 11 and Silva.  
 12 MEMBER WUKELIC: Kim and Silva?  
 13 MEMBER BOUCHARD: Silva.  
 14 CHAIR ALULI: Correct.  
 15 MEMBER WUKELIC: I second.  
 16 CHAIR ALULI: All in favor?  
 17 (A chorus of ayes.)  
 18 CHAIR ALULI: Any opposed?  
 19 (Silence.)  
 20 CHAIR ALULI: Motion carries. The financial  
 21 disclosures for Mr. Kim and Mr. Silva are acknowledged  
 22 accepted.  
 23 Item (b), under New Business, Communication  
 24 Items, there aren't any.  
 25 Item (c), Lobbyist Registration, there aren't

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1 any.  
 2 Item 8, Announcements, there aren't any.  
 3 Item 9, scheduled time for the next meeting is  
 4 Wednesday, April 13th, 2011. I would like to have a  
 5 motion to move us out of Regular Session and into  
 6 Executive Session. Can I get a motion to move us into  
 7 Executive Session?  
 8 MEMBER GUY: Come on. It's your last one.  
 9 CHAIR ALULI: Ms. Bouchard.  
 10 MEMBER BOUCHARD: Yes.  
 11 CHAIR ALULI: The honor is yours.  
 12 MEMBER BOUCHARD: Thank you. With reference  
 13 to the agenda items listed below, one or more executive  
 14 meetings are anticipated. In particular, the Board of  
 15 Ethics anticipates it will consider the evaluation,  
 16 dismissal or disciplining of an officer or employee of  
 17 the County of Maui, where considerations of matters  
 18 affecting privacy will be involved. The Board may also  
 19 consult with the Board's attorney on questions and  
 20 issues pertaining to the Board's powers, duties,  
 21 privileges, immunities and liabilities. Therefore,  
 22 pursuant to Hawaii Revised Statutes, Sections 92-5(a)(2)  
 23 and (4), the following items may be considered in  
 24 Executive Session. The Board may also convene in  
 25 Adjudicatory Session pursuant to HRS Section 92-6.

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1 CHAIR ALULI: Thank you, Ms. Bouchard. We'll  
 2 have that gold-plated, and you'll be able to hang it on  
 3 your wall.  
 4 MEMBER BOUCHARD: Yes.  
 5 CHAIR ALULI: We need to ask that the people  
 6 in attendance be asked to step outside while we're in  
 7 Executive Session.  
 8 MS. RAISBECK: Mr. Chair, I found my copy of  
 9 the letter I sent to the Board. And it is relevant to  
 10 the items you'll be considering. So may I give it to  
 11 the secretary and have her copy it --  
 12 CHAIR ALULI: Yes.  
 13 MS. RAISBECK: -- for you?  
 14 CHAIR ALULI: Yes.  
 15 MS. RAISBECK: Thank you.  
 16 MR. JOINER: Mr. Chairman, may I ask a  
 17 question?  
 18 CHAIR ALULI: Yes.  
 19 MR. JOINER: In the Executive Session, will  
 20 those of us who are complainants be invited back in to  
 21 speak or we go home?  
 22 CHAIR ALULI: At this point, I don't think so,  
 23 Mr. Joiner. We will -- well, may I suggest you wait?  
 24 And then we'll -- as the Board talks about this, we may  
 25 ask you to come in.

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1 MR. JOINER: Thank you.  
 2 MS. RAISBECK: Where can we wait?  
 3 CHAIR ALULI: I'm sorry?  
 4 MS. RAISBECK: Where do we wait?  
 5 CHAIR ALULI: There are benches outside.  
 6 Thank you.  
 7 (Recess to Executive Session, 1:11 p.m. to  
 8 4:36 p.m.)  
 9 CHAIR ALULI: And that's it. We're out.  
 10 Meeting adjourned. Thank you, folks, and Michael.  
 11 (Meeting adjourned at 4:36 p.m.)  
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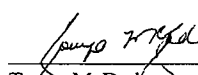

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I, TONYA MCDADE, Certified Court Reporter of the State of Hawaii, #447, Registered Professional Reporter, Certified Realtime Reporter, Certified Broadcast Captioner, do hereby certify that the proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; and that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney nor an employee of any of the parties hereto, nor in any way concerned with the cause.

DATED this 4th day of April, 2011.

  
\_\_\_\_\_  
Tonya McDade   
Certified Shorthand Reporter #447  
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