

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, April 13, 2011.

Reported by: Tonya McDade, CSR, CRR
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1 ATTENDANCE
 2 BOARD MEMBERS PRESENT:
 Michael Westfall, Chair
 3 Marti Wukelic, Vice-Chair
 Donald Sheridan, Secretary
 4 Rebecca Woods, Member
 C. Gretchen Guy, Member
 5 Frank Moe, Member
 6 STAFF PRESENT:
 Gary Y. Murai, Deputy Corporation Counsel
 7 Angela Andrade, Executive Secretary
 8 ALSO PRESENT:
 Councilmember Don Couch
 9 Buck Joiner
 Kai Nishiki
 10 Sally Raisbeck
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1 MS. ANDRADE: We do. We have Buck Joiner,
 2 testifying on Executive Item 3(d); Sally Raisbeck,
 3 testifying on Executive Item 3(d); and Kai Nishiki
 4 testifying on Executive Item 3(d).
 5 CHAIR WESTFALL: Just a reminder that it's
 6 three minutes. Mr. Joiner.
 7 MS. RAISBECK: Question. Question,
 8 Mr. Chairman.
 9 CHAIR WESTFALL: Yes.
 10 MS. RAISBECK: Is that three items per --
 11 CHAIR WESTFALL: Yes, per item.
 12 MS. RAISBECK: Per item?
 13 CHAIR WESTFALL: Yes.
 14 MS. RAISBECK: Okay. Thank you.
 15 CHAIR WESTFALL: Mr. Joiner.
 16 MR. JOINER: Thank you very much. Thank you,
 17 Board Members, for serving in this public capacity. We
 18 are missing the new Board Members?
 19 CHAIR WESTFALL: That is correct. He is
 20 excused today. There is only one so far that's been
 21 appointed.
 22 MR. JOINER: Okay. Today, I just want to
 23 express frustration. This is my, you know, third
 24 meeting coming before you. At the last meeting, we made
 25 our presentation and then we were just told to wait

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1 (Wednesday, April 13, 2011, 12:30 p.m.)
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 3 CHAIR WESTFALL: Let's go ahead and get
 4 started. We have a quorum. I think we're waiting for
 5 one more member. The meeting of April 13th, 2011 will
 6 come to order.
 7 Attendance: In attendance today is Mr. Frank
 8 Moe, Rebecca Woods, Marti Wukelic, Michael Westfall and
 9 Don Sheridan. Those that are excused are Sydney
 10 Kikuchi, and Sheri-Ann Daniels is excused.
 11 Have we all had an opportunity to review the
 12 minutes? Are there any changes in the minutes?
 13 CHAIR WESTFALL: Do I have a motion to accept
 14 the minutes?
 15 VICE-CHAIR WUKELIC: I so move.
 16 CHAIR WESTFALL: Second?
 17 MEMBER WOODS: I second.
 18 CHAIR WESTFALL: All those in favor?
 19 (A chorus of ayes.)
 20 CHAIR WESTFALL: Any opposed?
 21 (Silence.)
 22 CHAIR WESTFALL: Seeing none, they pass
 23 unanimously.
 24 We'll move to public testimony. Angela, do we
 25 have public testimony today?

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1 outside. And we waited for four hours to see if you
 2 wanted to know anything. Nobody ever asked any
 3 questions of us during the presentation or afterwards.
 4 And the four-hour wait was not because you were
 5 deliberating on the subject, but simply because you took
 6 care of a lot of other issues first and we were last.
 7 And there were in total six of us waiting four
 8 hours. And it seems to me that you could have just
 9 adjusted your agenda items to address those that were
 10 waiting sooner. In my opinion, it was impolite. I
 11 really don't have four hours to wait, just sit around
 12 like that.
 13 The second thing is that I'm still waiting to
 14 hear what happened. I've been told that there was some
 15 decision that was reached and that a letter would be
 16 forthcoming from Corporation Counsel. I waited a couple
 17 of weeks and called, and was informed that the letter
 18 will be written when the letter gets written, has many
 19 weeks to do it. And, you know, for me, as a member of
 20 the public, it's very frustrating to just be totally
 21 ignored. Sit outside for four hours, sit outside for
 22 four weeks, and we don't tell you anything. You have no
 23 idea what the process is or what's going on.
 24 And I just want to express that frustration,
 25 ask that you please be considerate of the public and say

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1 this is what's happening, and treat us with the respect
 2 that we treat you, please. Thank you.
 3 I'm still lost. I have no idea what's
 4 happened.
 5 CHAIR WESTFALL: Can you hold on one second?
 6 MR. JOINER: And I didn't even get a copy of
 7 the agenda.
 8 CHAIR WESTFALL: Mr. Joiner, I do want to
 9 apologize for that; however, by, maybe, explanation, the
 10 Board is precluded from discussing anything because of
 11 Sunshine laws. We will be discussing the letter later
 12 today. That's essentially where we are at. So you
 13 should be hearing something shortly.
 14 MR. JOINER: Thank you. It's just you could
 15 at least tell us about the process and what is going to
 16 happen and when it is going to happen, not we're telling
 17 you nothing. If you have additional deliberation or
 18 whatever, just to say you just sit and wait and we're
 19 not going to tell you absolutely anything, that's -- I
 20 don't think that's correct. I don't think that's --
 21 CHAIR WESTFALL: Sure. I understand your
 22 frustrations.
 23 MR. JOINER: Thank you.
 24 CHAIR WESTFALL: Thank you. Next person to
 25 testify.

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1 VICE-CHAIR WUKELIC: May I add something?
 2 CHAIR WESTFALL: Sure. I'm sorry. Let me go
 3 back. I'm sorry, Mr. Joiner. Is there any questions or
 4 any comments that any of the other Members would like to
 5 make?
 6 VICE-CHAIR WUKELIC: Just as a point of
 7 perspective, when you're waiting, we -- we go through
 8 this every month. We have lots of people come through.
 9 Sometimes people wait, sometimes they don't. But when
 10 we're locked in here, we're literally locked in here.
 11 So we don't really have an awareness of who is here, who
 12 is not here. And I'm not saying it's a justification;
 13 I'm just saying from a different perspective. In fact,
 14 we went on a short break and I was surprised to see a
 15 lot of people there because oftentimes people do leave
 16 after their testimony. So, again, I'm not justifying
 17 it, I'm just saying that we're in here doing our thing,
 18 we're not necessarily aware of what is going on outside
 19 the door.
 20 MR. JOINER: Thank you. But we were asked to
 21 wait to see if you had more questions. That's a
 22 different thing.
 23 VICE-CHAIR WUKELIC: I see what you are
 24 saying.
 25 MR. JOINER: And then to be at the end of the

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1 agenda, when everything else is taken care of. So I
 2 just ask that you make this clear to other people that
 3 are testifying. Today --
 4 VICE-CHAIR WUKELIC: I understand that.
 5 MS. RAISBECK: My name is Sally Raisbeck. I
 6 live in Wailuku. I testified a month ago on the same
 7 topic that Buck was talking about. I haven't heard
 8 anything, either.
 9 The word on the street, you might say, that
 10 friends of mine informed me about is that you have
 11 decided Mike White has no conflict of interest. If that
 12 is so, I feel very bad because, to me, it would mean a
 13 total disregard of Article 10. So I hope that is not
 14 going to be your decision. It would also be a very bad
 15 precedent for the County to make the Code of Ethics
 16 essentially meaningless.
 17 In my opinion, both Mike White and our
 18 Corporation Counsel have major conflicts of interest.
 19 And the way you deal with conflicts of interest is you
 20 disclose and you don't vote where it would be
 21 inappropriate. So that is the remedy for a conflict of
 22 interest. Everyone, I think, feels that Mike White is a
 23 good person and that he is probably going to do a very
 24 good job as Council Member, if he discloses and if he
 25 doesn't vote where it's inappropriate.

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1 What should he disclose? The day before your
 2 last meeting, when I testified, I found out that the
 3 Maui -- the Kaanapali Beach Hotel and the Kaanapali
 4 Properties is owned by billionaires in Hong Kong who
 5 have an enormous range of activity that I think, going
 6 by precedent, that Mike White should disclose all of. I
 7 provided you with some documentation showing that
 8 someone who works for a subsidiary should be considered
 9 to have a conflict both with -- not just that
 10 subsidiary, but with the parent company and any other
 11 subsidiaries of the parent company. If you choose to
 12 disregard this precedent, there's nothing I can do about
 13 it except, over time, work hard to document more
 14 precedents in how other jurisdictions treat these
 15 matters.
 16 So the fact that -- I mean, it came as quite a
 17 shock to me, perhaps not to you, that these Hong Kong
 18 billionaires owned these two companies. It's a
 19 fascinating story which has not appeared in "The Maui
 20 News", or anywhere else that I know of, because I
 21 usually keep up on news.
 22 Anyway, what I am feeling about what is next
 23 is I hope you will require full disclosure from Mike
 24 White. And that would include all of the empire that
 25 belongs to the owners of Kaanapali Beach Hotel and

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1 Kaanapali Properties.
 2 I don't feel any time pressure because the
 3 conflict isn't going to go away. And the longer I wait
 4 to file a complaint, the more instances there will be
 5 when possibly Mike has voted inappropriately. So time
 6 is not of the essence to me. I think he will do a good
 7 job as Council person on matters that don't involve
 8 things that involve his bosses. But, at the moment, I
 9 don't know who else is involved with his bosses. Thank
 10 you.
 11 CHAIR WESTFALL: Any questions for the
 12 testifier? Seeing none, thank you again.
 13 MS. RAISBECK: Thank you.
 14 CHAIR WESTFALL: Next.
 15 MS. RAISBECK: May I testify on one other
 16 thing?
 17 CHAIR WESTFALL: Sure, another few minutes.
 18 MS. RAISBECK: I'm curious that there's
 19 nothing that appears on the agenda about a communication
 20 item when the Board did receive a letter from Don Couch
 21 that I only found out about because I asked.
 22 CHAIR WESTFALL: It's on the agenda.
 23 MS. RAISBECK: It's on the agenda?
 24 CHAIR WESTFALL: Under New Business, Request
 25 for an Advisory Opinion from a Council Member.

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1 MS. RAISBECK: Well, it doesn't come under
 2 communication items?
 3 CHAIR WESTFALL: No. It's a request for an
 4 Advisory Opinion.
 5 MS. RAISBECK: Oh, okay.
 6 CHAIR WESTFALL: New Business.
 7 MS. RAISBECK: And that is --
 8 CHAIR WESTFALL: 6(d). Under open --
 9 MS. RAISBECK: 6(d). Oh, okay. Well, I would
 10 like to -- okay. I'm sorry about that. I would like to
 11 testify about that.
 12 CHAIR WESTFALL: Sure.
 13 MS. RAISBECK: Again, this is one of the cases
 14 that will come up again and again and again, where the
 15 cause is absolutely lily white and beautiful and the
 16 person who might be considered to have a conflict is
 17 lily white and beautiful. But you cannot allow those
 18 matters to make you say there is no conflict. There is
 19 a conflict, and it should be handled in the normal way
 20 by disclosure and not voting on something that could be
 21 perceived by the public to be inappropriate.
 22 Thank you.
 23 CHAIR WESTFALL: Thank you. Any questions?
 24 (Silence.)
 25 CHAIR WESTFALL: Thank you. Next testifier.

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1 MS. ANDRADE: Kai Nishiki.
 2 MS. KAI NISHIKI: Good afternoon, Board
 3 Members. I've provided copies of my testimony to the
 4 Executive Secretary.
 5 In the rules, Code of Ethics, and advisory
 6 opinions are found many references to the use of the
 7 word "may." There are also important and substantive
 8 uses of the word "shall." It is apparent that while a
 9 conflict of interest or the appearance of one need not
 10 be clearly defined, merely exist, what the Board of
 11 Ethics and our elected officials shall do are very
 12 clear. I ask this Board to examine my complaint along
 13 with evidence presented today to determine that
 14 violations have occurred and take appropriate action
 15 according to the Code of Ethics and your rules.
 16 Mike White has often stated that he has over
 17 40 years of experience in the visitor industry and feels
 18 in his heart there is no conflict of interest
 19 whatsoever, that he has the best of intentions and is
 20 not after personal financial gain. Unfortunately, what
 21 he feels in his heart, what his intentions are and
 22 whether he is after personal financial gain are not the
 23 standard. The facts remain, he has chosen to retain his
 24 position as general manager of the hotel, which is still
 25 a member of MVB, continues to serve as a director on

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1 many visitor industry boards to which he has fiduciary
 2 responsibilities. And these same boards regularly lobby
 3 the Council to lower hotel property taxes and fund the
 4 MVB.
 5 Violations include: February 3rd, 2011, EDAR
 6 Committee, where Mike White violated Council Rule Number
 7 9 as well as Article 10 of the Charter, Section 10-4(4).
 8 Please see attached transcript in which he repeatedly
 9 testifies about "our hotel" and "what we do," even going
 10 so far as to say, "we provide," meaning hotels, in
 11 regards to the TAT, which he quickly tries to correct by
 12 saying "the TAT."
 13 Financial interest is established through
 14 statements made by Mike White and Terryl Vencel in their
 15 presentation of MVB financial partnerships with hotels.
 16 Mike White is chairing the EDAR Committee as a
 17 council member while, at the same time, representing
 18 private interests before a County agency with his
 19 statements.
 20 Referencing Board of Ethics Advisory Opinion
 21 97-A3 and Article 10 of the Charter, funding or
 22 advocating for the funding of MVB are matters that
 23 directly affect MVB, and, as partners, the Kaanapali
 24 Beach Hotel, the employer of Mike White. This clearly
 25 constitutes financial interest. Therefore, an

1 established conflict of interest exists, hindering this
 2 Council Member's ability to perform his duties.
 3 Proof of an undeniable conflict of interest is
 4 not necessary according to a Board of Ethics advisory
 5 opinion. Instead, it is merely the appearance of one
 6 that is sufficient. Although, in this case, it is
 7 glaringly apparent.
 8 Furthermore, this opinion is based on service
 9 for a nonprofit board. What we are talking about today
 10 is Mike White's directorship on various boards, whose
 11 primary function is to gain funds from the County for
 12 the MVB and increase profits for the visitor industry
 13 which he is employed by, and not just as a regular
 14 employee, but the general manager of a hotel. A general
 15 manager is responsible for the profitability of a hotel.
 16 And a financial partnership with the MVB has been
 17 clearly established and evidenced.
 18 Mike White ignored the established process
 19 that provides the public with competence that government
 20 officials remain free from conflicts of interest and the
 21 appearance of impropriety while serving our County. And
 22 I believe that he violated the Code of Ethics through
 23 willful disregard of the clear rules set forth by the
 24 County Charter, rules of the Board of Ethics and the
 25 Council rules. I ask that appropriate penalties be

1 also confirmed his confirmation. And then now
 2 Mr. Kikuchi is going to be here reviewing a complaint
 3 against Mr. White.
 4 And I really believe that these conflicts of
 5 interest need to be avoided. And they can be avoided
 6 simply by using an abundance of caution and recusing
 7 yourself when these items come up. Past Council members
 8 have done this before whenever there's an item before
 9 the Board of Ethics, and they are to be voting on the
 10 nomination process, they've recused themselves. I don't
 11 understand why Mr. White has continued to vote on
 12 nomination confirmations.
 13 And then when Mr. Kikuchi is sitting here,
 14 we're going to see another conflict.
 15 So I'm hoping that the Board of Ethics will
 16 issue an interim ruling because, on Friday, he'll be
 17 voting. And I doubt that he'll use any restraint in --
 18 in placing that vote. So I ask for an interim ruling to
 19 be sent as soon as possible so that Mr. White can be
 20 advised that, look, it's just -- it's caution, you
 21 should be using it. You're a Council Member, please be
 22 ethical.
 23 Thank you.
 24 CHAIR WESTFALL: Thank you. I'm sorry, just
 25 one second. Any questions? Marti.

1 imposed as prescribed in Section 10-5 of the County
 2 Charter if this Board finds that violations have
 3 occurred.
 4 Lastly, taking into consideration the expiring
 5 terms of some of the Board of Ethics members, Mr. White
 6 should also be advised to refrain from interviewing
 7 potential appointees to the Board of Ethics and abstain
 8 from questioning, participating in discussion and voting
 9 on any Board of Ethics nomination confirmations until
 10 the Board has made its final determination.
 11 I ask this because Mr. White had knowledge, on
 12 January 21st, of a conflict of interest complaint to be
 13 filed with the Board of Ethics, and, yet, he continued
 14 to act without caution pursuing committee and Council
 15 action on his resolution. And I believe he will, by
 16 past example, continue to do so in regards to Board of
 17 Ethics nominees and items pertaining to the visitor --
 18 to the visitor industry.
 19 I have provided documentation that Mr. White
 20 has voted and questioned Board of Ethics nominees while
 21 review of complaints against Mr. White are taking place.
 22 And I believe that this now presents a conflict of
 23 interest on both sides in regards to Sydney Kikuchi and
 24 the newest member who has not been confirmed, which will
 25 go on this Friday. And he questioned Mr. Kikuchi and

1 VICE-CHAIR WUKELIC: I have some. Two issues.
 2 The one I want to address first is the last
 3 one you brought up. When I originally read this, it
 4 occurred to me that when I was appointed by the Board,
 5 when I was being ruled upon, there was a very similar
 6 situation with, I believe, a Council member was -- was
 7 in that same situation. I thought, wow, perhaps I
 8 shouldn't have been voted on, you know.
 9 MS. KAI NISHIKI: Uh-huh.
 10 VICE-CHAIR WUKELIC: So we have to look at
 11 that whole big picture.
 12 MS. KAI NISHIKI: Right. Right.
 13 VICE-CHAIR WUKELIC: And does this person who
 14 does not even know me -- you know, I gotta look at
 15 whether it influenced that person and whether I'm on the
 16 Board because one person thought I was going to vote a
 17 certain way or not. So I'm just mentioning that is a
 18 very common situation.
 19 MS. KAI NISHIKI: Yes. I hear, yes.
 20 VICE-CHAIR WUKELIC: I have some questions
 21 about the situation --
 22 CHAIR WESTFALL: Excuse me, Marti. I think
 23 I've been counseled here. Since this matter is being
 24 brought up in Executive Session, we need to --
 25 VICE-CHAIR WUKELIC: You're right.

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1 CHAIR WESTFALL: -- have these questions in
 2 Executive Session.
 3 MS. KAI NISHIKI: Okay.
 4 CHAIR WESTFALL: So if you're willing --
 5 MS. KAI NISHIKI: I'm willing. I am signed up
 6 for the day here, so -- thank you.
 7 CHAIR WESTFALL: Thank you.
 8 MS. KAI NISHIKI: I'm one of the ones who
 9 waits out there for six hours. Thank you.
 10 CHAIR WESTFALL: Any other testifiers?
 11 MS. ANDRADE: No.
 12 CHAIR WESTFALL: Thank you.
 13 Moving on to Old Business:
 14 Financial Disclosures, none.
 15 Communication Items, none.
 16 Financial Disclosures, we have two; Clayton
 17 Tom and Patrick Wong. Any comments on either of those?
 18 Mr. Moe, you always have something.
 19 MEMBER MOE: My reputation precedes me.
 20 CHAIR WESTFALL: Yes.
 21 MEMBER MOE: No. I would move to acknowledge
 22 the financial disclosures of Clayton Tom and Patrick
 23 Wong.
 24 CHAIR WESTFALL: Do I have a second?
 25 MEMBER WOODS: I second.

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1 CHAIR WESTFALL: All those in favor?
 2 (A chorus of ayes.)
 3 CHAIR WESTFALL: Any opposition?
 4 (Silence.)
 5 CHAIR WESTFALL: None. We'll acknowledge
 6 receipt of those two financial disclosures.
 7 Moving on in New Business:
 8 Communication Items, none.
 9 Lobbyist Registration, none.
 10 Item (d), Request for an Advisory Opinion from
 11 a Council Member regarding his status as a board member
 12 of the Boys and Girls Club of Maui and his ability to
 13 vote on issues directly related to that board. At this
 14 time I'll call up Mr. Couch who has requested -- who is
 15 the Councilman who's requested the advisory opinion.
 16 And you can give us any comments you would like to make.
 17 COUNCILMEMBER COUCH: Sure. Thank you. My
 18 name is Don Couch, Council Member from South Maui
 19 District. I am a board member of the Boys and Girls
 20 Club of Maui, and Akaku Maui Community Television as
 21 well. Just I want to put that in there. I think that
 22 was in my letter, but I'm not sure. Having been the
 23 chair of this board for two years, I know exactly what
 24 you're going through. So I'm going to try and pinpoint
 25 it.

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1 Akaku receives line item budgeting from the
 2 Maui County budget. Boys and Girls Club receives
 3 funding from the bigger pot called Youth Centers. Okay.
 4 I don't have an issue with the Akaku. I
 5 certainly -- when it comes time to vote on that
 6 particular line item -- which sometimes I don't even
 7 vote, it's a consensus thing -- then I certainly have
 8 and will continue to announce my association with that
 9 organization and abstain from voting.
 10 Boys and Girls Club is a little bit different
 11 in that it's a line item for youth centers. And I just
 12 need an opinion from you guys whether or not I should
 13 also recuse myself from that one.
 14 Then the third one, the overall budget, which
 15 is hundreds of millions of dollars that we have to vote
 16 on, has those two items in it. And previous -- I seem
 17 to recall previously, when sitting there, that that was
 18 okay for the Council to -- for the Council Members to go
 19 ahead and vote on the overall budget.
 20 And the reason I'm requesting this opinion is
 21 because prior to this year, this Council term, Council
 22 Members could not recuse themselves without the approval
 23 of the rest of their peers unless they had an opinion.
 24 And that rule has since changed, but I would like some
 25 backup when I do want to say that I want to recuse

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1 myself.
 2 That's all I have. If you have any
 3 questions --
 4 CHAIR WESTFALL: Any questions of any of the
 5 Members? The only thing, just a comment, you've seen
 6 some of the prior opinions.
 7 COUNCILMEMBER COUCH: Certainly have.
 8 CHAIR WESTFALL: From Kawano's time and a
 9 couple others.
 10 COUNCILMEMBER COUCH: I think I signed a few
 11 of them.
 12 CHAIR WESTFALL: You probably participated. I
 13 wanted to make sure you're seeing the same stuff we're
 14 seeing.
 15 COUNCILMEMBER COUCH: Yeah.
 16 CHAIR WESTFALL: Okay. I guess there's no
 17 questions.
 18 COUNCILMEMBER COUCH: Okay. The only other
 19 question or comment I have is that the budget, we
 20 vote -- first reading is in May and the second reading
 21 is in June. So if you could -- I mean, I --
 22 CHAIR WESTFALL: Issue a decision?
 23 COUNCILMEMBER COUCH: I'm anticipating I'm
 24 going to, at least for Akaku, recuse myself. And for
 25 the line item for Youth Centers, I would like some

1 clarification on that one. Thank you.
2 CHAIR WESTFALL: Thank you. What I'm going to
3 do is have Gary say a few words as to the prior advisory
4 opinions and the information that we've gotten that were
5 sent out to you.

6 MR. MURAI: Yes. Thank you, Mr. Chair.
7 For the Members, I provided the Members with a
8 few matters. One of them is the Advisory Opinion,
9 97-A3, which was referenced a little while ago. Another
10 was a February 9th, 2001 letter from the Corporation
11 Counsel's office to then Council Chairman Patrick
12 Kawano. And the third was a November 3rd, 2009
13 Corporation Counsel opinion to Danny Mateo. And,
14 fourth, I provided you with a copy of the current
15 Council Rules.

16 Now, to just briefly -- now, this may not be
17 the entire universe of all of the applicable rules,
18 prior opinions, statutes and that sort of thing, but
19 just to make it more manageable for the Members, I
20 provided these which I believe to be representative of
21 what is out there.

22 And just to briefly summarize: In Advisory
23 Opinion 97-A3, the Board then felt that serving on a
24 nonprofit board may be compatible with an elected
25 official's duty, but may tend to impair his or her

1 independence of judgment. The Board felt that there
2 should be no voting on matters directly affecting the
3 Councilor's nonprofit organization; however, once a
4 conflict is disclosed, the counselor may participate in
5 the discussions. It is okay to participate in the
6 discussion and vote on matters that indirectly affect
7 the nonprofit organization.

8 And for the Council Member, it's impractical
9 to bar them from voting on the budget if there are other
10 budget items affecting the nonprofit organization. So
11 once a member discloses their conflict at a Budget
12 Committee level, abstains from voting on the line item
13 appropriation, and assuming the appropriation passes out
14 of committee, that member may vote on the entire budget.

15 The reason why the February 9, 2001 letter to
16 Mr. Kawano was provided was that letter asked whether
17 councilors can be barred from serving on nonprofit
18 organizations. And the answer was no, that there may
19 not be any rule or law that says an elected official is
20 barred from participating on a nonprofit board.

21 Unfortunately, the letter points out the
22 problems that arise if more than one member has to
23 recuse themselves. Unfortunately, at the time,
24 Corporation Counsel was not able to go further and say,
25 well, this is the fix. But I think the problem is well

1 set out.
2 And in the November 3rd, 2009 opinion,
3 authored for Mr. Mateo, Mr. Mateo was asking about a
4 U.S.D.A. grant that was being divided amongst nonprofit
5 organizations of which several Council Members -- not
6 all together, but I think there were two or three
7 Council Members that each were members of different
8 boards and all those boards -- I mean -- sorry -- all
9 those organizations would be receiving some money. And
10 as to that, the opinion, basically, was disclose and
11 abstain.

12 To the question if a nonprofit organization
13 requests a zoning change, as a Council Member, of that
14 nonprofit organization requesting the zoning change,
15 need to abstain. And because -- the Corporation Counsel
16 opined that because the zoning change will directly
17 affect that organization, the Council Member must
18 disclose and abstain.

19 The other question asked was -- I think at the
20 time proposed rule changes were -- were submitted to the
21 Corporation Counsel for review. And the question was,
22 will these rule changes cure the problem.
23 Unfortunately, I did not have access to those changes.
24 And at the time all the Corporation Counsel did was
25 suggest proposed language. So what I don't know is

1 whether that language that were adopted or not --
2 actually, that point is somewhat moot now because we do
3 have the current Council Rules which you've been
4 provided as well.

5 And, lastly, Mr. Mateo asks, can board members
6 be prohibited by ordinance. And at the time the
7 Corporation Counsel, in 2009, said, well, we can't
8 really rule on that because there's kind of a short
9 leash on this request and we don't have enough facts.
10 But I believe that that question has been answered by
11 the 2001 letter to Patrick Kawano that you also have.

12 And, finally, as to the Council Rules, I turn
13 your attention to Rule Number 9. And I think that
14 pretty much -- well, it speaks for itself, but, to sum
15 up, my summary would be that if Rule 9 requires
16 disclosure of the service on the nonprofit board
17 announcement that the member will be abstaining, the
18 rule does distinguish between voting on a line item
19 measure affecting that nonprofit organization and voting
20 on general legislation such as the budget.

21 The rule also provides that an abstaining
22 member may participate in the discussion, but may not
23 advocate for the organization. And the member may not
24 participate in any executive meeting regarding that
25 nonprofit organization. Also, the non-voting member may

1 not make or second motions, but may speak on the motion.
 2 And, I guess, to cure the problem of too many
 3 people abstaining and, therefore, losing a quorum or
 4 shifting the vote, the rule somewhat fixes that problem,
 5 tries to fix the problem by saying that the majority --
 6 a majority of vote will be required but just of the
 7 number of voting members.
 8 Anyway, I submit that -- those for your
 9 information. If any Board Member feels that they wish
 10 to discuss the matter with me, I guess as a matter of
 11 seeking legal advice, then I would need to suggest that
 12 that Board Member move that portion of this discussion
 13 be moved into Executive Session, if anybody feels that's
 14 necessary.
 15 CHAIR WESTFALL: Thank you, Gary. I guess
 16 that's -- we'll start with that question first. Is
 17 there anyone here that feels any need to discuss this
 18 from a relationship of our attorney?
 19 MEMBER WOODS: I would like to move it to
 20 Executive Session so we can discuss it further.
 21 CHAIR WESTFALL: Okay. Any discussion on
 22 that? I guess I have a motion, so I need a -- do we
 23 need to vote on that?
 24 MR. MURAI: Yeah.
 25 CHAIR WESTFALL: So I have a motion.

1 MEMBER SHERIDAN: I second.
 2 CHAIR WESTFALL: Second. All those in favor?
 3 I'll vote "aye." So all those opposed?
 4 MEMBER MOE: Opposed.
 5 VICE-CHAIR WUKELIC: Opposed.
 6 CHAIR WESTFALL: So two -- I'm sorry.
 7 MEMBER WOODS: No, I'm "aye."
 8 CHAIR WESTFALL: So three to two. Okay. So
 9 we'll move this into Executive Session. I'm sorry?
 10 VICE-CHAIR WUKELIC: May I ask Counsel, too,
 11 like just --
 12 CHAIR WESTFALL: I guess let me stop there for
 13 a second. We're moving into Executive Session for the
 14 purpose of asking you questions. That doesn't mean --
 15 MR. MURAI: What Councilmember Couch has done
 16 is he has asked that this be held in open session.
 17 CHAIR WESTFALL: Right.
 18 MR. MURAI: And, therefore, I think the
 19 matters discussed in Executive Session will just be
 20 limited to the Board or Board Member seeking legal
 21 advice. I believe -- and Mr. Couch is here to correct
 22 me if I'm incorrect -- that he wished for the Board's
 23 discussion of his request to be held in open session.
 24 MEMBER MOE: And he also asked for a speedy
 25 response given the budget timeline.

1 CHAIR WESTFALL: Let's do this: We'll
 2 continue this discussion. If anyone feels that they
 3 have questions that are more properly addressed to Gary,
 4 from a legal standpoint, we'll move those over and we'll
 5 address them in Executive Session today. And so
 6 continuing with the discussion, any other questions for
 7 Gary that don't move into that other realm? I had a
 8 couple.
 9 MR. MURAI: Sure.
 10 CHAIR WESTFALL: Our advisory opinions are
 11 just that, advisory. The remedy, if you will,
 12 disclosure, abstention, voting on line items, being able
 13 to speak, those are the purview of the Council Rules, so
 14 we don't have jurisdiction over that aspect?
 15 MR. MURAI: No.
 16 CHAIR WESTFALL: So Mr. Couch's letter asks us
 17 to comment on if he can vote.
 18 MR. MURAI: Well, the Board may issue its
 19 opinions based on the matters that are within their
 20 control or their interpretation and their authority,
 21 which would be interpretation of the Code of Ethics and
 22 applying a specific set facts to those -- to the Code.
 23 There may be matters that are outside the scope of the
 24 Board's jurisdiction, and, therefore, any advisory
 25 opinion that he issues may be conditional or limited in

1 scope.
 2 VICE-CHAIR WUKELIC: So am I correct in seeing
 3 here that there is a lot of language regarding his
 4 ability to vote lump sum budget, and there's a lot of
 5 language in his ability to vote line item, but the
 6 question is because this one organization is lumped in
 7 with these other organizations, we're trying to decide
 8 whether this is more similar to the language on the
 9 budget or whether it's more similar to the language on
 10 individual organizations. Is that the issue?
 11 MR. MURAI: That is my understanding based on
 12 what I've just heard.
 13 VICE-CHAIR WUKELIC: Okay.
 14 MR. MURAI: And perhaps, you know, if the
 15 Board has questions about that, they may be best posed
 16 to Councilmember Couch.
 17 VICE-CHAIR WUKELIC: Right.
 18 MR. MURAI: But, yeah, you're right.
 19 VICE-CHAIR WUKELIC: So that's what we're
 20 trying to figure out. Okay.
 21 CHAIR WESTFALL: Mr. Couch, maybe you can come
 22 back. Just to make this a little clearer and a little
 23 easier, just to make sure we understand where you are
 24 coming from.
 25 COUNCILMEMBER COUCH: Okay.

1 CHAIR WESTFALL: Since you're the one
 2 requesting the --
 3 COUNCILMEMBER COUCH: Pretty much, it is the
 4 one line item. And I'm fine with either way you go with
 5 it. I just want to have it so that if it were brought
 6 up at any time, I would have that opinion. And that is
 7 a little bit different from our -- I mean, the opinion,
 8 obviously, is for the Code of Ethics as opposed to the
 9 Council Rules, which, apparently, we can suspend at any
 10 time we want. So I want to have something more solid
 11 than the Council Rules.
 12 MEMBER WOODS: Can I -- so I guess I want to
 13 make clear that your suggestion was to follow Rule 9 of
 14 the --
 15 MR. MURAI: No, no. I wasn't saying that we
 16 need to follow Rule 9. I just wanted the Members to be
 17 aware --
 18 MEMBER WOODS: Okay.
 19 MR. MURAI: -- that besides the Board of
 20 Ethics or the Code -- besides the Code of Ethics, there
 21 are other sets of rules or guidelines --
 22 MEMBER WOODS: Okay.
 23 MR. MURAI: -- that would guide or control
 24 what Council members do. And while the Board may not be
 25 able to grant everyone the relief that they seek based

1 on other sets of rules, or that may come up in another
 2 arena, I just felt that it was helpful for the Board to
 3 be aware of them. And especially because any opinion
 4 that issues would need to take into account -- or would
 5 need to, I guess, be conditioned or narrowed or limited
 6 based on this body's applications of authority it has.
 7 MEMBER WOODS: Okay.
 8 MR. MURAI: So, again, I'm not saying that we
 9 must follow Rule 9.
 10 MEMBER WOODS: Right.
 11 MR. MURAI: I just submitted -- provided the
 12 rule to the -- the rules to the Members so that the
 13 Members are aware of them, aware of what they say and
 14 can then, therefore, you know, make their decisions with
 15 the knowledge that -- that there may be other -- other
 16 rules, other structures, other chairpersons that the
 17 Council Member may have to go to for that kind of
 18 relief.
 19 MEMBER WOODS: Okay.
 20 VICE-CHAIR WUKELIC: The part that I keep
 21 getting stuck in is you said it was part of a larger
 22 group.
 23 COUNCILMEMBER COUCH: Right.
 24 VICE-CHAIR WUKELIC: Can you explain that a
 25 little more?

1 COUNCILMEMBER COUCH: The Boys and Girls Club
 2 gets their funding from -- the Grants Review Committee
 3 has a pot of money that they have to divvy up. Okay.
 4 That pot of money is called Youth Center. It's about
 5 1.6 million, 1.5 million dollars. Of that, the Boys and
 6 Girls Club gets about four-fifths of it -- no, I'm
 7 sorry -- three-fifths of it.
 8 VICE-CHAIR WUKELIC: How is that determined?
 9 COUNCILMEMBER COUCH: Pardon?
 10 VICE-CHAIR WUKELIC: How is that determined?
 11 COUNCILMEMBER COUCH: Grants Review Committee
 12 determines that.
 13 VICE-CHAIR WUKELIC: Not a voting issue?
 14 COUNCILMEMBER COUCH: No. Just a pot of money
 15 that the Council has to say how big that pot is -- is
 16 where I would like a ruling on.
 17 MEMBER WOODS: Oh, okay.
 18 VICE-CHAIR WUKELIC: Oh.
 19 CHAIR WESTFALL: Mr. Moe, you had questions?
 20 MEMBER MOE: I do. Mr. Couch, do you feel
 21 this Youth Center line item is significantly different
 22 than the line item for Akaku?
 23 COUNCILMEMBER COUCH: The Youth Center line
 24 item is not. It's the same kind of line item for Akaku.
 25 But the Youth Center -- within the Youth Center, there

1 are nine youth centers, four of which belong to the Boys
 2 and Girls Club.
 3 MEMBER MOE: But in a sense, a line item is a
 4 line item?
 5 COUNCILMEMBER COUCH: Correct.
 6 MEMBER MOE: Thank you.
 7 CHAIR WESTFALL: Rebecca, did you have a
 8 question?
 9 MEMBER WOODS: Well, I was just -- you know,
 10 in my opinion, I think -- I think that you probably know
 11 what you need to do. And I'm -- and what I'm feeling is
 12 that any line item you should -- you should not
 13 participate in voting on any line item issue. But on
 14 the overall budget, my opinion is that's fine, that's --
 15 you know, as long as you do not vote on the line item.
 16 But the overall budget, to me, would seem appropriate.
 17 So that's my opinion.
 18 CHAIR WESTFALL: Any other questions?
 19 Mr. Sheridan, you have any?
 20 MEMBER SHERIDAN: No.
 21 CHAIR WESTFALL: I think what we could do at
 22 this point is go into Executive Session purely for the
 23 purpose of addressing any concerns Ms. Woods might have
 24 and then we'll come back into Regular Session and
 25 continue this.

1 MEMBER WOODS: Okay.
 2 CHAIR WESTFALL: Okay. So we're going to have
 3 to ask everyone to step out for a minute.
 4 MR. JOINER: A minute? A minute or four
 5 hours?
 6 (Recess to Executive Session, 1:12 p.m. to
 7 1:36 p.m.)
 8 CHAIR WESTFALL: We're back in Regular
 9 Session, still on Item 6(d), Request for an Advisory
 10 Opinion from a Council Member regarding his status as a
 11 Board Member of the Boys and Girls Club of Maui and his
 12 ability to vote on issues directly related to the board.
 13 Mr. Couch, you can keep a seat for now, I may
 14 call you back in a minute as we get into the discussion
 15 here. Thank you for your patience in waiting.
 16 COUNCILMEMBER COUCH: No worries.
 17 CHAIR WESTFALL: I think we'll start, Rebecca,
 18 you had something you wanted to add for the minutes.
 19 MEMBER WOODS: Okay. I just wanted to mention
 20 that we have a Council Member on our board. I'm with Ka
 21 Hale A Ke Ola Homeless Resource Centers. Mike Victorino
 22 is a board member. And he makes it very, very clear
 23 that he does not vote on any issues regarding our
 24 agency's financial status or our requests. He recuses
 25 himself. And he has always remained professional. And

1 The third question is the one that we're
 2 having the back and forth and the discussion. And I
 3 think that the perspective that we have settled on, and
 4 we'll have a discussion here, is we're sort of in a gray
 5 area in a sense that if we looked at it, what you're
 6 asking us is to render a decision on a line item that is
 7 general for all youth centers, but happens to only have
 8 a few youth centers with the majority of those proceeds
 9 going to the Boys and Girls Club. And I'll ask any
 10 Member to chime in if I'm not articulating this
 11 correctly. And so that leaves us in a little bit of a
 12 gray area.
 13 And I think what I'll do is open the
 14 discussion there amongst the Members, if we have any
 15 comments on where we should go. Essentially, our answer
 16 is yes, no, you can vote or you can't. So that's what
 17 we're coming down to. But it's a matter of how we treat
 18 something that is a little bit in the gray area. And,
 19 again, we're trying to be very narrow in looking at the
 20 Ethics rules as well as the rules of the County Council.
 21 I would premise it by saying this is an
 22 Advisory Opinion, and highlight the word "advisory."
 23 While we're looking at the rules of the County Council,
 24 they don't have any jurisdiction over those rules. And
 25 I think, as Mr. Couch has mentioned before, the County

1 we don't expect that of him. So I just want to put that
 2 out there. He's a real role model to follow. Okay.
 3 CHAIR WESTFALL: Thank you, Rebecca.
 4 As we reviewed the request for the Advisory
 5 Opinion, we've skipped down to the four specific
 6 questions that were raised. And what we've looked at is
 7 our rules as well as the Council Rules. Council Rules
 8 would be Rule 9, voting and recording of votes, and
 9 specifically Section C, disclosure of interest and
 10 abstention from voting.
 11 So the first question, may I vote on a
 12 resolution to approve a grant of a lease to the Boys and
 13 Girls Club. And the answer, we believe, on that, we
 14 would be putting in advisory opinion, is no.
 15 The second question is, may I vote on a motion
 16 during a Committee or Council meeting to increase or
 17 decrease monetary appropriation for the Boys and Girls
 18 Club. And our answer there would again be no.
 19 I'm going to skip to Number 4. May I vote on
 20 a bill to approve a land use entitlement sought by the
 21 Boys and Girls Club. Again, our answer there would be
 22 no.
 23 All three of those are specific to Boys and
 24 Girls Club. And you're shaking your head, so you're in
 25 agreement with that.

1 Council has the ability to override or do whatever they
 2 want at some other point. So all we're doing is using
 3 those as a guide at this point.
 4 Marti.
 5 VICE-CHAIR WUKELIC: My personal inclination,
 6 my personal opinion, and I'm very open to changing this
 7 opinion, is when I look at the face of it, because it
 8 involves other groups -- opinion only of one Board
 9 Member -- I would think that if it involved groups
 10 beyond your involvement and if the monies and the
 11 decision within that group are not made by you, I would
 12 personally think that you could vote, disclose and then
 13 vote on items regarding the use.
 14 CHAIR WESTFALL: Let me interject one thing.
 15 I think we're all in agreement that there's a conflict
 16 of interest and that there's a -- you know, the remedy
 17 first is disclosure. So now we're going down to the
 18 other, how do you act within that world. So, I'm sorry.
 19 VICE-CHAIR WUKELIC: Okay. My own opinion, my
 20 inclination, was just to say that, yes, once that was
 21 established, if it involved the entire youth group,
 22 voting would be appropriate. My opinion. We're not
 23 necessarily in agreement.
 24 CHAIR WESTFALL: Any other comments? Mr. Moe,
 25 you had --

1 MEMBER MOE: Well, I'll take the opposite
 2 tact. I think that, as Mr. Couch described it, the
 3 bucket of money that comes under Youth Centers is a line
 4 item issue as well. And I think that would be the same
 5 as Item 2, voting on an increase or decrease of monetary
 6 appropriations. So I would think the answer to that
 7 would be no, saying that he should not -- he should
 8 disclose and not vote on issues included in the Youth
 9 Center line item, if that's the correct name for it.
 10 And then Item 3, I think we got past
 11 something, he asked a question, may I vote on a bill to
 12 approve the annual budget. It includes monetary
 13 appropriation for BGC and the Youth Center. I think the
 14 answer to that would be yes, which is --
 15 CHAIR WESTFALL: That is correct. I'm sorry.
 16 I was reading beyond that one. I apologize. Any other
 17 thoughts, Don?
 18 MEMBER SHERIDAN: I concur with Frank.
 19 CHAIR WESTFALL: Don, maybe you can come back
 20 to the podium. I just had a quick question. I know we
 21 don't have the Finance Director here or the Budget
 22 Director, but I'm going to rely on your expertise.
 23 COUNCILMEMBER COUCH: Okay.
 24 CHAIR WESTFALL: Are there other sections in
 25 the budget that have similar -- I don't know how -- what

1 the term I'm searching for.
 2 VICE-CHAIR WUKELIC: Umbrella.
 3 CHAIR WESTFALL: Organization, if you will,
 4 you know, a category, and then there's different --
 5 COUNCILMEMBER COUCH: Yes.
 6 CHAIR WESTFALL: So there's others?
 7 COUNCILMEMBER COUCH: There are.
 8 CHAIR WESTFALL: Could you name some of those?
 9 COUNCILMEMBER COUCH: God, I've been going
 10 through my --
 11 CHAIR WESTFALL: Theoretically --
 12 COUNCILMEMBER COUCH: With nonprofits?
 13 CHAIR WESTFALL: Yeah. I mean, that's the
 14 topic here, the conflict with nonprofits.
 15 COUNCILMEMBER COUCH: Yeah. We haven't gotten
 16 through -- to that section yet, but I remember there are
 17 a couple that -- a lot of them have to do with youth
 18 services and some of them have to do with health care, I
 19 believe. And that's where -- that's why the Grants
 20 Review Committee was formed, is the Council says here's
 21 your -- your bucket, here's how you have to split it up.
 22 So that's one of the main reviews -- or main purposes
 23 for the Grants Review Committee. And I just want to
 24 mention that the lease thing that came up, it already
 25 came up before Council and I already recused myself. I

1 just wanted to --
 2 CHAIR WESTFALL: Okay.
 3 COUNCILMEMBER COUCH: There's going to be
 4 another one coming up, too. So I just want to make
 5 sure. I think it has to do with health. And I'll have
 6 to take a look at it. Today is Police Department, so
 7 that's in my head.
 8 CHAIR WESTFALL: I probably put you on the
 9 spot. I figured you're the only expert in the room.
 10 COUNCILMEMBER COUCH: Yeah. I've seen it
 11 before, especially with nonprofits.
 12 CHAIR WESTFALL: Okay.
 13 MEMBER WOODS: Well, I think -- I could be
 14 wrong, but I think we're all on the same page as far as
 15 the fact that not to vote on the line items, to vote on
 16 the overall budget.
 17 COUNCILMEMBER COUCH: Cool. Thank you.
 18 CHAIR WESTFALL: Any other questions,
 19 comments?
 20 VICE-CHAIR WUKELIC: So did we ever decide on
 21 Youth Centers as a group? Or is that --
 22 CHAIR WESTFALL: I think, right now, we have
 23 two who have openly stated their thoughts, and yourself,
 24 so that's three. So Rebecca and I have not said
 25 anything yet, but I certainly have a thought.

1 Gary, do you have anything you want to add
 2 here? And then we'll --
 3 MR. MURAI: No. No.
 4 CHAIR WESTFALL: All right. Well, my thoughts
 5 are, I think, maybe, as an abundance of caution, I'm
 6 going to agree with Mr. Moe and Mr. Sheridan that we
 7 need to be careful here. And since there's also other
 8 sections in the budget, you know, we could come into
 9 this again. So I think at this time I would be inclined
 10 to side with the no voting. And, again, making the
 11 comment that we're only making a recommendation and it's
 12 for the County Council to enforce or do as they -- as
 13 their pleasure. So that would be my thoughts.
 14 MEMBER WOODS: Is that for Number 3?
 15 CHAIR WESTFALL: Well --
 16 MEMBER WOODS: What is that for?
 17 CHAIR WESTFALL: That's for Mr. --
 18 MR. MURAI: I'm calling it 3-A.
 19 MEMBER WOODS: Because there's --
 20 VICE-CHAIR WUKELIC: In general.
 21 CHAIR WESTFALL: Right. Let's be clear.
 22 Well, Number 3, we've determined that he can vote on
 23 based on the County Council rules.
 24 MEMBER WOODS: Right.
 25 CHAIR WESTFALL: 3-A is voting on a specific

1 line item which is for a category which includes several
 2 nonprofits under it. That's the discussion we're
 3 having. Everything else we've, more or less, clearly
 4 articulated. Okay. Any other discussion? Do I have
 5 any motions?
 6 MEMBER WOODS: So I guess I move that --
 7 CHAIR WESTFALL: Let me -- I guess I need to
 8 have -- do I need to have five motions or --
 9 MR. MURAI: No. I think what -- because it
 10 sounds to me as though the Board is in concurrence with
 11 four of the five matters, I think, Mr. Chair, perhaps
 12 you should solicit a motion that as to Numbers 1 through
 13 4, as written, that the Board adopt, I guess, as you had
 14 stated.
 15 CHAIR WESTFALL: Yeah. But let's -- if I
 16 could get a motion on the four items listed in the
 17 letter and then we'll come back and work on 3-A.
 18 MEMBER WOODS: So I move that, for Item 1,
 19 that he -- that he does not vote. Is that you how want
 20 me to say it? I don't know how you want me to --
 21 MR. MURAI: I think maybe when we were
 22 discussing it earlier, more accurately, that Mr. Couch
 23 should disclose his conflict and that he may not --
 24 although he may participate in the discussion, he may
 25 not vote on the matter. The same would apply to Number

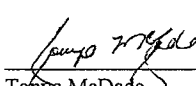

1 2, same would apply to Number 4 and as to Number 3, that
 2 Mr. Couch may vote on the annual budget, you know, even
 3 though it may contain appropriations that would go to
 4 the benefit of the Boys and Girls Club.
 5 MEMBER WOODS: Okay.
 6 MR. MURAI: And if I've accurately stated
 7 that, then maybe you could just move that we adopt what
 8 I stated.
 9 MEMBER WOODS: I adopt that we -- or I move --
 10 I motion that we adopt Corporation Counsel's statement
 11 for Items 1, 2, 4.
 12 MR. MURAI: 3 and 4?
 13 MEMBER WOODS: 3 and 4.
 14 MEMBER SHERIDAN: I'll second it.
 15 CHAIR WESTFALL: All those in favor?
 16 (A chorus of ayes.)
 17 CHAIR WESTFALL: Any opposition?
 18 (Silence.)
 19 MR. MURAI: And as to the remaining matter --
 20 CHAIR WESTFALL: Let me -- I'm sorry. Let me
 21 premise this, Mr. Couch, just so you know, our
 22 discussion was that when you testified, you sort of
 23 added something. And that's what we're discussing now,
 24 the line item. It wasn't specific in your letter.
 25 COUNCILMEMBER COUCH: Okay.

1 CHAIR WESTFALL: So that's why it's sort of
 2 being -- we're bringing it out as 3-A. Okay.
 3 MEMBER WOODS: Okay.
 4 MR. MURAI: I think I would summarize the
 5 final matter would be may the requester vote on, I
 6 guess, a category of funds. I don't know how best to
 7 describe it, but -- well, a category of funds wherein
 8 the organization of which he is a board member of will
 9 receive a portion of those funds. And I guess depending
 10 who is making the motion, the movant would say, I vote
 11 that we say that the requester may vote on the matter
 12 and -- well, I think probably you will all agree that he
 13 should disclose; the question is may he vote. And I
 14 suppose if Mr. Moe was making the motion, he would be
 15 moving that the requester not be allowed to vote on the
 16 matter. If the Vice-Chair were making the motion, then
 17 she would be moving that the requester may vote on the
 18 matter. So I put that on the table for whomever wishes
 19 to so move.
 20 CHAIR WESTFALL: So do I have a motion?
 21 MEMBER MOE: Sure.
 22 MEMBER WOODS: What have we decided on that
 23 part? I mean, I --
 24 VICE-CHAIR WUKELIC: We were going to vote.
 25 We haven't decided, that's why we voted.

1 MR. MURAI: Assuming that the Board has
 2 completed their discussion, then the only thing left to
 3 do would be to call for the question. I'm not trying to
 4 limit the Board's discussion. If the Board wishes to
 5 discuss the matter further, pose more questions for the
 6 requester, that's the Board's privilege.
 7 CHAIR WESTFALL: Why don't we get the motion
 8 out on the table and I'll ask for more discussion. So,
 9 Mr. Moe.
 10 MEMBER MOE: Yeah. I'd like to move that with
 11 regard to the Youth Centers line item, Mr. Couch
 12 disclose his involvement with the Boys and Girls Club
 13 and refrain -- abstain from voting on that particular
 14 line item.
 15 CHAIR WESTFALL: Discussion?
 16 MEMBER WOODS: I'm in agreement.
 17 VICE-CHAIR WUKELIC: Second.
 18 MEMBER SHERIDAN: I'm in agreement.
 19 CHAIR WESTFALL: I need a second, then.
 20 MEMBER SHERIDAN: Second.
 21 CHAIR WESTFALL: All those in favor, I'll ask
 22 you to raise your hands here. Four. All those opposed?
 23 So we have a four-to-one vote. Does that carry?
 24 MR. MURAI: Yes.
 25 CHAIR WESTFALL: Okay. So the motion carries.

1 This will simply go into the form of an Advisory Opinion
 2 which you'll get within 45 days.
 3 MR. MURAI: I think he's asked for an
 4 expedited --
 5 CHAIR WESTFALL: I'm sorry, expedited. But
 6 you're hearing verbally what our decision has been, so
 7 we'll expedite the Advisory Opinion, too.
 8 COUNCILMEMBER COUCH: Thank you. Thank you
 9 very much.
 10 CHAIR WESTFALL: Thank you.
 11 Okay. Announcements, Number 7, none.
 12 Our next meeting will be Wednesday, May 11th,
 13 2011.
 14 That's the end of our Regular Session. Let's
 15 see. I'll ask Mr. Sheridan, since you're our Secretary,
 16 the honors of reading this in. I'm sorry, we've got to
 17 clear the room again here.
 18 MS. KAI NISHIKI: Excuse me. Chair, I was
 19 asked to wait outside, so you'll call me?
 20 CHAIR WESTFALL: Yes. I will make sure we do
 21 better than we did last time.
 22 MS. KAI NISHIKI: That's fine.
 23 MEMBER SHERIDAN: With reference to the agenda
 24 items listed below, one or more executive meetings are
 25 anticipated. In particular, the Board of Ethics

CERTIFICATE

1
 2
 3
 4 I, TONYA MCDADE, Certified Court Reporter of
 5 the State of Hawaii, do hereby certify that the
 6 proceedings contained herein were taken by me in machine
 7 shorthand and thereafter was reduced to print by means
 8 of computer-aided transcription; and that the foregoing
 9 represents, to the best of my ability, a true and
 10 accurate transcript of the proceedings had in the
 11 foregoing matter.
 12 I further certify that I am not an attorney
 13 nor an employee of any of the parties hereto, nor in any
 14 way concerned with the cause.
 15 DATED this 4th day of May, 2011.
 16
 17
 18  
 19 Tonya McDade
 20 Certified Shorthand Reporter #447
 21 Registered Professional Reporter
 22 Certified Realtime Reporter
 23 Certified Broadcast Reporter
 24
 25

1 anticipates it will consider the evaluation, dismissal
 2 or disciplining of an officer or employee of the County
 3 of Maui, where considerations of matters affecting
 4 privacy will be involved. The Board may also consult
 5 with the Board's attorney on questions and issues
 6 pertaining to the Board's powers, duties and privileges,
 7 immunities and liabilities. Therefore, pursuant to
 8 Hawaii Revised Statutes, HRS, Sections 92-5(a)(2) and
 9 (4), the following items may be considered in Executive
 10 Session. The Board may also convene in Adjudicatory
 11 Session pursuant to HRS Section 92.6.
 12 CHAIR WESTFALL: Thank you.
 13 (Recess to Executive Session, 1:54 p.m. to
 14 3:43 p.m.)
 15 CHAIR WESTFALL: Let's see. Now I need to
 16 motion to adjourn from Regular Session.
 17 VICE-CHAIR WUKELIC: I so move.
 18 CHAIR WESTFALL: All those in favor?
 19 (A chorus of ayes.)
 20 CHAIR WESTFALL: Meeting ends. Thank you.
 21 (Meeting concluded at 3:43 p.m.)
 22
 23
 24
 25