

MAUI COUNTY BOARD OF ETHICS

Regular Meeting

Wednesday, August 8, 2012

Held at the Planning Conference Room, Kalana Pakui Building, 200 S. High Street, Wailuku, Maui, Hawaii, commencing at 12:35 p.m., on Wednesday, August 8, 2012.

REPORTED BY:
Cammie Gillett
Registered Professional Reporter
Hawaii Certified Shorthand Reporter #438

ORIGINAL

ATTENDANCE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BOARD MEMBERS PRESENT:

Michael Westfall, Chair

Donald Sheridan, Secretary

Marti Wukelic, Member

Sydney Kikuchi, Member

Randol Leach, Member

Norman Franco, Member

C. Gretchen Guy, Member

BOARD MEMBERS EXCUSED:

Frank Moe, Vice-Chair

STAFF PRESENT:

Gary Y. Murai, Deputy Corporation Counsel

Angela Andrade, Executive Secretary

1 WEDNESDAY, AUGUST 8, 2012

2 * * *

3 CHAIR WESTFALL: (Gavel). Okay. We're going to go
4 ahead and get started here. I'll call the meeting of
5 Wednesday, August 8th, 2012, of the Maui County Board of Ethics
6 to order.

7 Attendance. We have a full house today. Michael
8 Westfall, Chair; Don Sheridan, Secretary; C. Gretchen Guy;
9 Marti Wukelic; Sydney Kikuchi; Randol Leach; and Norman Franco
10 are all present.

11 Election of new Vice-Chair. Due to Mr. Moe's, member,
12 resignation, I'm going to open the floor to nominations. And
13 I'm going to go ahead and nominate Marti to fill out Frank's
14 role since she has experience.

15 MEMBER GUY: Second.

16 CHAIR WESTFALL: So do I have a motion to accept the
17 nomination of Marti Wukelic as Vice Chair for the remainder of
18 the 2012 term.

19 MEMBER SHERIDAN: So moved.

20 MEMBER GUY: Second.

21 CHAIR WESTFALL: All those in favor -- or any
22 discussion.

23 All those in favor, signify by saying "aye"?

24 (Round of ayes.)

25 CHAIR WESTFALL: There's unanimous consent.

1 Marti, congratulations. She can kick me under the
2 table.

3 Moving on to Item 4. Minutes, July 11th, 2012. Do I
4 have a motion to approve those minutes?

5 MEMBER WUKELIC: I so move.

6 MEMBER KIKUCHI: Second.

7 CHAIR WESTFALL: Any discussion.

8 Seeing none. All those in favor, signify by saying
9 "aye."

10 (Round of ayes.)

11 CHAIR WESTFALL: Any objection? Seeing none, those
12 minutes are approved.

13 Old Business. Financial disclosures, none.

14 Communication Items (b). Scheduling of Public Hearing
15 regarding amendments to Chapter 04-101, Rules of the Maui
16 County Board of Ethics.

17 So I think what we had done at our last meeting was we
18 went through all the revisions and sent them back to get typed
19 up. Am I correct? So are we waiting for that?

20 MR. MURAI: No. Well, actually, my
21 understanding -- and I could be mistaken -- was that the Board
22 needed some time to consider Mr. Wong's recommendations. And I
23 think the question is whether the Board was going to accept,
24 not accept, or accept in part and decline in part Mr. Wong's
25 recommendations. And if so, then Angela -- well, actually, it

1 would be Lisa Kahuhu, who would be inputting the change that
2 the Board adopted so that the rules could be made in final form
3 for public hearing.

4 CHAIR WESTFALL: Okay. My recollection is that we did
5 go through all of those. There was quite a number of changes,
6 or slight modifications. So we had already done that process.

7 Am I correct, Members?

8 MR. MURAI: Oh, okay.

9 MEMBER GUY: Yeah. But if you read the minutes,
10 okay -- which I did because I wasn't present, okay -- it looked
11 like you guys went through it. But on page 7, Murai makes a
12 motion to suspend the rules. And that's where I think the
13 communication broke down.

14 CHAIR WESTFALL: No, we suspended the rules so somebody
15 could testify earlier.

16 MR. MURAI: Right, it was only because we had --

17 MEMBER GUY: Yeah, it was Mrs. Underwood --

18 MR. MURAI: Ms. Underwood, she had to leave to go --
19 the suspension of the rules was simply to allow us to take a
20 matter out of order.

21 MEMBER GUY: Okay.

22 MEMBER WUKELIC: We did go through all of them.

23 CHAIR WESTFALL: So I suspect that all those changes
24 are in the minutes.

25 MR. MURAI: And if they are, then I apologize that

1 staff didn't have those inputted. But if the Board so desires,
2 the Board may go ahead and -- I recommend that if the Board's
3 saying that we're ready to set it for public hearing, do so not
4 for the September meeting of the Board, but perhaps the October
5 meeting of the Board. And that should give the Corporation
6 Counsel's staff enough time to put together the version that
7 the Board approves for public hearing in time for -- to meet
8 the requirements of publication and to give the public adequate
9 time to review the rules and make comments, if they wish.

10 MEMBER GUY: So, Gary, are you saying that we'll get
11 the formalized version in our September meeting so that we're
12 sure that what we thought we were going to get, we'll get? And
13 then we'll set the --

14 MR. MURAI: Yeah, so -- well, I suppose, Carol Ann,
15 that we could have the finalized -- or the final draft ready
16 for the Board to inspect at the next meeting, and then set it
17 for hearing at the following meeting, October. Or I suppose
18 you could set it for public hearing now in October, with the
19 anticipation that you're going to be getting the final draft at
20 the September meeting.

21 MEMBER GUY: Sounds good. Let's set the meeting.

22 CHAIR WESTFALL: Yeah, I think we've been -- this has
23 been going on since before I was chairman for years. So let's
24 go ahead and set a public hearing for October. If something
25 happens, something happens. But let's go ahead and set the

1 public hearing for October. Members can still review the
2 minutes -- or the rule revisions. And if you have changes, you
3 can bring them up at that October meeting. So --

4 MEMBER GUY: No, September meeting.

5 CHAIR WESTFALL: Well, no. They're going to create the
6 draft for this September meeting, but we need it by October for
7 the public hearing. I'm saying the public hearing doesn't
8 preclude members from still making suggestions if you have
9 suggestions.

10 MEMBER GUY: Okay.

11 MEMBER WUKELIC: As a point of clarification, the
12 discussion took place on page 42 and 43 of our minutes.

13 CHAIR WESTFALL: Thank you.

14 Angela, you got that on page 42 and 43 of the minutes,
15 are the changes or acceptance --

16 MS. ANDRADE: Yes.

17 CHAIR WESTFALL: -- of Mr. Wong's suggestions.

18 MR. MURAI: And I found my notes. They're kind of like
19 going -- I was following along with a checklist. And so we
20 have that information.

21 CHAIR WESTFALL: So to summarize, Corporation Counsel
22 will attempt to get a revised draft of the rules by the
23 September meeting, and we will go ahead and schedule the public
24 hearing for October. Correct there.

25 MEMBER GUY: Is this the venue?

1 CHAIR WESTFALL: Yes, it will just be a regular
2 meeting.

3 MR. MURAI: Yes.

4 CHAIR WESTFALL: So I think, Angela, I guess, what --
5 you folks will know. You probably put a notice in the Maui
6 News, or something, of a public hearing.

7 MS. ANDRADE: Yeah, right.

8 CHAIR WESTFALL: So we'll delegate that over to you.

9 MS. ANDRADE: Right.

10 CHAIR WESTFALL: Okay. Any other discussions there.

11 Okay. Moving on to Item C. Report from the Rules
12 Review Subcommittee. I'll going ahead and make a few comments.
13 We met today. We went over three items. The first item was
14 the revision -- Randol's favorite subject -- of the financial
15 disclosure form. And we did look at some of the other
16 jurisdictions. And sure enough, they do have online
17 capabilities to go ahead and go online and fill it out, and
18 they do stop if you're not filling it out correctly, or
19 whatnot. We are going to draft a memo, a wish list, if you
20 will, and send it to the -- is it the IT department?

21 MS. ANDRADE: Yes, MIS.

22 CHAIR WESTFALL: And they're going to serve as our
23 consultant on that and come up with a new form or new format,
24 or whatever. And we'll look at this the next couple months.

25 Two other items we had a good discussion on, the first

1 one being gifts. And Gary provided us with an advisory opinion
2 from the State Ethics Commission on gifts that was sent to one
3 of the legislatures. We're going to hold off discussion on it
4 until the next meeting. We'll have it on the agenda. This is
5 for -- what do you call it? Sunshine Rules. So that it's on
6 the agenda and there will be a discussion in open session on
7 gifts and a suggestion that we issue an advisory opinion on
8 that.

9 And the second item, which we're going to treat the
10 same way, is people serving in fiduciary capacities on boards,
11 primarily nonprofit boards. We received an advisory opinion a
12 couple years ago from the State Ethics Commission on that. So
13 what we're looking at is these are sort of preventative
14 measures. What we're thinking is these are hot topics on a
15 statewide basis. But before we get a complaint, before we get
16 something, we'd like to send it out to the people that are
17 subject to these rules; hey, here's some interpretations, go
18 forward with the thought of these interpretations. So at the
19 next meeting, we'll have a full discussion with the Board so
20 that we can put these two items on the agenda. Okay?

21 Discussion regarding website. Any discussion on the
22 website? Seeing none.

23 Item E. Discussion regarding complaint form.

24 Seeing none -- yes, go ahead.

25 MEMBER FRANCO: Could that be put online also?

1 CHAIR WESTFALL: Yes.

2 MEMBER FRANCO: Subcommittee --

3 CHAIR WESTFALL: I'm sorry. Let me correct myself. It
4 is online already.

5 MEMBER FRANCO: It's online?

6 MS. ANDRADE: Uh-huh.

7 MEMBER FRANCO: Okay.

8 CHAIR WESTFALL: This was one of our great
9 accomplishments over the last couple of years, to get an actual
10 form. I think -- Randol, was the form we designed during your
11 term?

12 MEMBER LEACH: We were talking about it, yeah.

13 CHAIR WESTFALL: Okay. Continued discussions regarding
14 financial disclosure forms. As I said, we're going to send a
15 memo up and get a new draft of that.

16 Item G. Continued discussions regarding status of
17 financial disclosure statements.

18 I think, Angela, that would be -- do we have any
19 delinquents out there still?

20 MS. ANDRADE: Actually, we do. There's only a couple.
21 But the one I'm concerned with that I want to bring to your
22 folks attention. I don't know if you remember from two
23 meetings ago, there was a Mr. Garrett Hera, from outer island
24 from the Molokai Planning Commission. His financial statement
25 wasn't -- it was incomplete.

1 CHAIR WESTFALL: Okay.

2 MS. ANDRADE: So (Inaudible) he wanted me to send it
3 out. And I'll point out Mr. Hera is 82 years old. And
4 everybody has to fill it out (Inaudible) he has not, despite
5 all the willpower to follow up to the first letter. So I don't
6 know what to do.

7 CHAIR WESTFALL: Let me just -- so we're all on the
8 same page. We have some sort of a -- Carol Ann would know
9 this, working at a bank -- sort of a collection process here.
10 Thirty days out, we send a friendly reminder letter. So we're
11 beyond that. Now we're sending a second letter.

12 MS. ANDRADE: Actually, with Mr. Hera's, he did submit
13 it. It was incomplete. So I returned it and asked him to
14 complete it and asked him to get it back at a certain time. As
15 soon as possible, is what I usually put. That was in August.
16 So that was from June. I haven't heard anything. On July
17 23rd, I sent him a follow-up letter. This is different from
18 the reminder letter.

19 CHAIR WESTFALL: So we're treating him different than
20 the other two that are still out there?

21 MS. ANDRADE: Right.

22 CHAIR WESTFALL: So I'm going to come back to the other
23 two in just a minute and see where we're at. Go ahead and
24 finish.

25 MS. ANDRADE: Anyway, I sent him another letter on July

1 23rd, reminding him that on this date, we sent you letter
2 asking him to complete your financial disclosure statement.
3 And we still have not received it. I gave him until July 30th.
4 And he has not responded, called, anything. Just from my
5 recollection with dealing -- he's a very nice man, but he's
6 old. And I remember his comment to me last year when I did
7 call him up and tell him he forgot to do something, and his
8 comment was, "My dear, I don't even remember my name half the
9 time."

10 MEMBER LEACH: What commission is he on?

11 MS. ANDRADE: The Molokai planning Commission. So he's
12 had the letters, you know -- I don't know.

13 CHAIR WESTFALL: Well, I guess we need to be consistent
14 with everyone, irrespective of age.

15 MS. ANDRADE: Okay. So I guess the next step would be
16 to --

17 CHAIR WESTFALL: Well, I guess we're -- let me go back.
18 So the other two that haven't submitted, we're now, what, at 60
19 days?

20 MS. ANDRADE: Well, there's two people that I did do
21 the first warning. And I haven't done the second -- because
22 the letter says please submit it by this date. If you don't,
23 you will be -- this will come up for discussion at the next
24 meeting, which is set for August 11th. I'm sorry, August 8th.
25 So then now I have to do a follow-up with him, a second

1 reminder, second request. And I think what -- I don't have it
2 in front of me. But that one states more action will be taken.
3 Then the third step will be initiating a complaint by the
4 Board.

5 CHAIR WESTFALL: Correct.

6 So, members, what will happen is next month when we
7 meet, if they haven't turned them in, then we'll be voting to
8 issue a complaint for them not turning it in, which we did last
9 year. I think we had one or two of them, which then they
10 turned them right in.

11 So go ahead.

12 MEMBER WUKELIC: I have a question about this
13 gentleman. There have been times off and on since I've been on
14 the Board that when an addition or correction or clarification
15 was simple, it was made over the phone. Do we still do that
16 sometimes?

17 MS. ANDRADE: We do still do that. But Mr. Hera's
18 statement was just -- I mean, there were several questions that
19 were left blank. And I'm thinking that maybe they didn't apply
20 to him, but it was -- I think he filled out -- I don't have it
21 in front of me. But I believe he filled out his personal
22 information, and I think maybe eight of the boxes were left
23 blank. I mean, it was just blank. Like it was very
24 incomplete. It wasn't just one or two items, it was pretty
25 incomplete.

1 And a correction. Mr. Hera is on the Lanai Planning
2 Commission, not on the Molokai Planning Commission.

3 CHAIR WESTFALL: So let me take it in two steps here.
4 So with the two that haven't responded, we're simply going to
5 send out --

6 MS. ANDRADE: The second letter.

7 CHAIR WESTFALL: Are all members okay with that? And
8 this is a more strident letter, if you will. So now we're back
9 to Mr. Hera.

10 MS. ANDRADE: Mr. Hera.

11 CHAIR WESTFALL: He didn't turn it in, and now he's 60
12 days delinquent. Any thoughts on what we should do?

13 MEMBER SHERIDAN: Telephone call again. And if he
14 doesn't respond to that, then we have to make the next step.

15 CHAIR WESTFALL: Okay. And the next step would be the
16 60-day letter.

17 MEMBER SHERIDAN: Yep.

18 CHAIR WESTFALL: A more strident letter.

19 And we send a copy of that to the commissioner of the
20 board that he's on?

21 MS. ANDRADE: Yes.

22 CHAIR WESTFALL: Any other thoughts on that? Are we
23 okay with that?

24 So, Angela if you can -- I'm fine with that myself. So
25 if you could give him a call. And if he doesn't respond, we'll

1 put him on the 60-letter process.

2 MS. ANDRADE: Okay.

3 MEMBER GUY: I know this is out of the ordinary and
4 it's because he's on Lanai and he's 82. Is it possible to call
5 the Chair and maybe have them help him with it, or something
6 like that? In other words, in advance of issuing that letter.
7 Is that --

8 MS. ANDRADE: I've called the secretaries of the boards
9 before.

10 CHAIR WESTFALL: Well, I must say this year, we've
11 probably got more people in compliance than we ever have. So
12 there's something that's working. It's one or two. So I don't
13 personally see that would be a problem.

14 MEMBER GUY: Okay.

15 MEMBER WUKELIC: Another suggestion would be to put a
16 note on it saying call me when you get this and I'll talk you
17 through it.

18 MS. ANDRADE: Yeah.

19 MEMBER WUKELIC: I think either of one of those would
20 be good.

21 CHAIR WESTFALL: Okay. So we're going to sort of leave
22 it in your hands to do the massaging, so to speak.

23 MS. ANDRADE: Okay.

24 CHAIR WESTFALL: If that doesn't work, then he's just
25 going to get the letter.

1 MS. ANDRADE: I don't think he's deliberately -- I just
2 think age is a huge factor.

3 CHAIR WESTFALL: Well, we know you're capable.

4 MEMBER WUKELIC: Solve it. We don't want to know how.
5 Just kidding.

6 CHAIR WESTFALL: All right. Any other discussions
7 there?

8 MEMBER GUY: Who were the other two?

9 MS. ANDRADE: I don't have the list in front of me.
10 But I think there's actually two people from the
11 Molokai -- that's why I was confused.

12 MEMBER GUY: Okay. So it's boards and commissions,
13 it's not like a councilmember?

14 MS. ANDRADE: No, they are all in. It's just boards
15 and commission.

16 CHAIR WESTFALL: Okay. We're going to move on to New
17 Business. However, counsel has asked for a five-minute recess.
18 Everybody okay with that?

19 Okay. We'll take a five-minute break.

20 MR. MURAI: Okay.

21 (Recess taken.)

22 CHAIR WESTFALL: Okay. Reconvening the meeting of
23 Wednesday, August 8, 2012, with the Maui County Board of
24 Ethics.

25 We're on Item 7, New Business. Financial Disclosures.

1 We have two from Riki Hokama, one as a candidate and one as
2 a --

3 MEMBER GUY: Candidate. No, pro se candidate.

4 MEMBER WUKELIC: You mean one is the first time?

5 CHAIR WESTFALL: Yeah, one is the first time and one is
6 annual filing.

7 Let's see. Anyone see any discrepancies or anything?

8 MEMBER FRANCO: I have only one. The --

9 CHAIR WESTFALL: Okay.

10 MEMBER LEACH: It says candidate on both forms.

11 CHAIR WESTFALL: Okay. I'm sorry. There's one that
12 says first-time filing, and the other one says --

13 MEMBER GUY: Annual update.

14 CHAIR WESTFALL: Okay. Rather than asking sort of a
15 trick question, I'm going to bring up the topic that we were
16 just discussing. If you notice on the file, that it was listed
17 as annual filing. At the top, there are two date stamps. One
18 says Office of the County Clerk, May 31st.

19 MEMBER GUY: Uh-huh.

20 CHAIR WESTFALL: The other says received Corporation
21 Counsel, that's us, July 9th.

22 MEMBER GUY: Uh-huh. The 6th.

23 CHAIR WESTFALL: No -- okay. There's one that's the
24 6th and there's one --

25 MEMBER LEACH: It's received two places.

1 MEMBER GUY: Oh, oh, oh. Sorry.

2 CHAIR WESTFALL: Okay. This is going to be a
3 discussion. The thought here is how do I -- lets see. The
4 rules require someone running for office to file the financial
5 statement simultaneous with their filing --

6 MR. MURAI: Their nomination.

7 CHAIR WESTFALL: Their nomination papers. That date
8 would have been May 31st. That's why the 31st date appears to
9 be up there. It appears that the paper was copied, and then he
10 signed it the 31st, rather than in July. So my question here,
11 I think for members -- and maybe Gary will give you some legal
12 advice -- is this an issue, or is this something we just move
13 on.

14 MEMBER WUKELIC: I have a question.

15 CHAIR WESTFALL: Go ahead.

16 MEMBER WUKELIC: If that first block was checked
17 instead of the second block, would there be any issue?

18 MR. MURAI: I'm sorry, which block? The one that says
19 first time versus annual update?

20 MEMBER WUKELIC: Yes.

21 MR. MURAI: Well --

22 MEMBER WUKELIC: If that block was checked, would we be
23 having this discussion?

24 MR. MURAI: We may still be having the discussion
25 because there are potential -- you know, I think the potential

1 discrepancies make -- whether you check first-time filing or
2 annual update, they make it irrelevant.

3 Now, the discrepancies as to when this document was
4 actually executed, in other words, signed and filed, may
5 be -- you know, may be an issue for this board. And if the
6 Board decides that they may want to request more information,
7 then the Board could do that. If the Board does, I'm just
8 informing the Board that it may be necessary that the
9 Corporation Counsel's office -- me, in particular -- may be
10 conflicted out and we'll need to bring in a Deputy Corp Counsel
11 from another jurisdiction, probably the Big Island, to advise
12 the Board in that matter.

13 And I realize, you know, it may be unfair to the Board
14 members because what you really need to do is see the
15 original --

16 CHAIR WESTFALL: You may want to pass it around.

17 MEMBER LEACH: We have it in our packet.

18 CHAIR WESTFALL: No, the original. What you have is a
19 copy. You can see the stamp. It's a copy.

20 MR. MURAI: If you look at the date stamp, the file
21 stamp.

22 MEMBER WUKELIC: And why is this more impressive than
23 that? Because they're both stamped on the same -- they're both
24 stamped.

25 MR. MURAI: Well, there was a concern or a belief that

1 the file stamp is not the original file stamp. It
2 appears -- well, of course, I'm not an expert in photocopies.
3 But that file stamp may be a photocopy, a color photocopy of
4 the original. And so what the file stamp --

5 MEMBER WUKELIC: And the County Clerk one or the --

6 MR. MURAI: The County Clerk one. Yeah, the one on the
7 right-hand side. There's a believe that may be a color copy of
8 the original, and that the Clerk's Office has the actual
9 original that was initially submitted on May 31st.

10 The other query that we had when we first looked at
11 this was how to account for the five-week-plus delay in the
12 Clerk transmitting that to us. So --

13 CHAIR WESTFALL: And interjecting. This would be the
14 only form that there was any discrepancy in it being
15 transmitted to us.

16 MR. MURAI: Yes.

17 MEMBER GUY: Just to be sure, I understand where we're
18 at. In other words, when the County Clerk receives the
19 candidate's filing, it comes to us with a stamp, et cetera, and
20 then we stamp it here in the upper corner --

21 MR. MURAI: Well, normally --

22 MEMBER GUY: -- when we receive it on all candidates?

23 MR. MURAI: No. Well, most people file -- board and
24 commission members, elected officials, most of them will file
25 it directly with our office. Although, they are allowed to

1 file it with the Clerk's Office concurrently as well.

2 MEMBER GUY: No, no. I'm just talking about the
3 candidates.

4 MR. MURAI: I'm getting to that in a second. However,
5 candidates generally, because the Charter requires them to,
6 file their nomination concurrently with their initial financial
7 disclosure. Everyone does it as a practical matter with the
8 Clerk's Office. And those are usually transmitted fairly
9 promptly to the Board for us. And, you know, had that -- had
10 this been transmitted on May 31st or June 1st, or whatever the
11 case may have been, it probably would have made it onto our
12 agenda for our July or last month's meeting.

13 MEMBER GUY: Okay. So what you're saying is generally
14 for the candidate's filing, the receive stamp in the Office of
15 the County Clerk and the receive stamp for Corporation Counsel
16 is just a short interlude, and there's --

17 MS. ANDRADE: Yes.

18 MEMBER GUY: Okay. Taking a different approach, isn't
19 this sort of a County Clerk deal? In other words, this is the
20 candidate's filing. Don't they look at it to see that it's
21 complete since it's a candidate?

22 MR. MURAI: No, that wasn't the issue. Completeness
23 wasn't the issue.

24 MEMBER GUY: Yeah, I get that. I get that. But the
25 last time -- the whole reason for them having to file at the

1 time of nomination papers is because of an incident that
2 occurred. And it was actually the County Clerk that should
3 have caught it, but we did. And so we ended up cleaning that
4 up. My question is, doesn't the County Clerk look at what
5 they're receiving? Is that in their purview to look at it?

6 MR. MURAI: Not necessarily.

7 MS. ANDRADE: I don't think so, no. I think they just
8 receive it.

9 MEMBER LEACH: Do they have a record that they received
10 Riki Hokama's filing on May 31st?

11 MS. ANDRADE: It's online. It's online. You can look
12 up the candidates. That's how I was keeping track of the
13 candidates that hadn't filed their papers -- or when they file
14 their papers. You can go on the election website, and it tells
15 you when they filed their papers.

16 MEMBER LEACH: So was the financial disclosure filed on
17 May 31st, as it states?

18 MS. ANDRADE: Well, I can't verify that it was filed by
19 the Clerk's Office other than by that file stamp. I did not
20 receive it until July 9th.

21 MEMBER LEACH: No. I'm just questioning, did the
22 County Clerk receive the form May 31st, as the stamp indicates?

23 MS. ANDRADE: That's what we need to --

24 MEMBER LEACH: No, my question is do they keep an
25 actual log?

1 MS. ANDRADE: That, I don't know.

2 CHAIR WESTFALL: You know -- I'm sorry. Tell me if I'm
3 looking -- okay. The one that has the two stamps on it, okay,
4 indeed he checked the wrong section on the top. It should be
5 in the middle where it says elected or appointed (Inaudible).
6 But it would still appear that he filed the one for candidate
7 late. Because he's claiming he filed his papers on May 31st,
8 and we didn't get this until July 6th. Am I correct?

9 So issue one is he was late with his candidate filing,
10 just based on the date that's here. Because it should have
11 been May 31st. Okay. So let me go over that again and tell
12 me -- help me here if I'm going down the wrong path. The paper
13 where he's listed first-time filing and he has the top box
14 checked County Councilmember, this is his filing for running
15 for office for this next term. Okay? That, in and of itself,
16 is a late filing because this should have been received by us
17 May 31st, and it was received by us July 6th. Okay. So
18 somewhere this didn't -- he didn't file it in a timely manner.
19 Okay.

20 Now, the second paper is the one that he's filing as a
21 sitting councilmember. So what he did here is he put it in the
22 wrong box. It should have been the first box, not the second
23 box. Let me restate that.

24 At the top, he's checked annual filing IMA, and he's
25 got candidate for public office. It should be the second box,

1 IMA elected or appointed officer. So it's the wrong box.

2 Okay.

3 MEMBER LEACH: That might not be true, Michael.
4 Because this might be the form that he filed as the candidate.
5 Because he filled in the box, date of filing and nomination
6 papers.

7 CHAIR WESTFALL: Okay.

8 MEMBER LEACH: And this one might be because it's the
9 annual update.

10 CHAIR WESTFALL: Okay.

11 MS. ANDRADE: Can I say something?

12 MEMBER LEACH: That's the way I see it.

13 CHAIR WESTFALL: Okay.

14 MS. ANDRADE: They're both filed as candidates. His
15 annual update came in and was already acknowledged.

16 CHAIR WESTFALL: So why are we getting two from -- I
17 mean, I don't know. I feel like I'm -- what is that, the Three
18 Stooges, or something? On first and on second. I mean, why is
19 he filing two?

20 MEMBER WUKELIC: Probably because somebody said you
21 haven't filed your other one. First of all, that kind of
22 marker, it's really hard to tell whether it's an original or a
23 copy. So -- I don't. For me, it's a real stretch to think
24 that's not an original. And secondly, this doesn't -- we have
25 our rules and we stick by our rules. But this whole annual and

1 filing for -- because I'm a candidate thing for an incumbent
2 makes a whole lot more sense to us than it does to anybody
3 else.

4 So I'm trying really hard to find mischief here. And I
5 got to tell you, I can't. I think that something could have
6 gotten lost. I think something could have gotten lost in an
7 office somewhere for a couple months.

8 CHAIR WESTFALL: Let me see how many people think we
9 should continue to pursue this if there's something we need to
10 know more here.

11 MEMBER GUY: Well, for the double-date stamp?

12 CHAIR WESTFALL: I'm sorry. Hold on one more second.
13 Let me ask one more question.

14 Angela, so somewhere else is his annual filing as a
15 sitting councilmember?

16 MS. ANDRADE: Yes.

17 CHAIR WESTFALL: We've already reviewed that and
18 acknowledged that?

19 MS. ANDRADE: Yes.

20 CHAIR WESTFALL: So, for whatever reason, we've got two
21 here, which I'm not sure why.

22 MEMBER GUY: So we did review -- so I was wondering if
23 this was filed before our July meeting -- okay. So the annual
24 update as a sitting councilmember for 2012 has been filed,
25 reviewed and done?

1 MS. ANDRADE: Yes.

2 CHAIR WESTFALL: So all we're looking at is the form he
3 was supposed to complete as a candidate.

4 MS. ANDRADE: Yes.

5 CHAIR WESTFALL: And for whatever reason, we have two
6 of them.

7 MEMBER SHERIDAN: And the one says first-time filing
8 and the other one says annual update.

9 MEMBER WUKELIC: To me -- and I don't know -- but it
10 looks more of an internal issue and not really going back to
11 the candidate necessarily. That's just my opinion.

12 CHAIR WESTFALL: Okay. Why don't I see if we have some
13 sort of consensus here of where to go with this. I guess, how
14 many people think -- and you can just raise your hand. This is
15 just unofficial. Do we need to pursue what happened here, or
16 can we -- do we need to pursue this further?

17 MEMBER FRANCO: Can I just put a question on the delay
18 from the date it was received until the date Corporate
19 Counsel's office got it. I think that's the issue.

20 MEMBER SHERIDAN: That's not the only issue. The one
21 says first-time filing and the other says annual update.

22 CHAIR WESTFALL: So there's three outcomes we can have
23 here. One, there's some shenanigans. Two, this is some kind
24 of clerical thing. And three, it's like everyone else, these
25 forms don't -- he's just screwing up how to fill out a form.

1 So it's one of the three. And so if it's number one,
2 obviously, we would have to pursue it further. Do I have a
3 strong feeling in that regard?

4 MEMBER FRANCO: Well, I think we need some
5 clarification as to when we got it. So just to get
6 clarification.

7 MEMBER LEACH: Can I ask one question.

8 CHAIR WESTFALL: Sure.

9 MEMBER LEACH: Angela, did he file his nomination
10 papers on May 31st?

11 MS. ANDRADE: Yes, he did.

12 MEMBER LEACH: To me, it makes sense that he probably
13 filed it with that. Because it says right here, date of filing
14 nomination papers, May 31st.

15 MEMBER SHERIDAN: We need clarification. You know, if
16 that's so, then what's the other one for?

17 MEMBER LEACH: Well, it says right here, received May
18 31st.

19 MEMBER FRANCO: Yeah, but the date we received it in
20 Corporate Counsel's office --

21 MEMBER LEACH: Well, that's different. But he's
22 required to file this with his nomination papers, and it's
23 stamped May 31st.

24 MEMBER FRANCO: I think he did it right, it's just
25 somehow it got delayed between the Corporate Counsel and

1 Clerk's Office.

2 MEMBER WUKELIC: I agree with what Norman just said.

3 MEMBER GUY: Did you have occasion, Angela, to ask why
4 the delay? Did they bring it up? Is it a third-party delivery
5 for you, or just interoffice, like envelopes?

6 MS. ANDRADE: Yeah, it's interoffice like that.

7 CHAIR WESTFALL: You know, I think what we're going to
8 do here -- and if anyone has a strong objection, let me know.
9 I think we're sort of speculating all over the place.

10 Angela, we don't want to make something out of nothing.
11 Why don't we hold this one until the next meeting. And then,
12 Angela, if you could just go and check with the various people
13 to maybe get a better explanation of something more substantial
14 as to what happened here. If it's simply that, for whatever
15 reason, it just didn't get sent up to you in a timely manner,
16 and we can look at it again next month. I think we just --

17 MEMBER GUY: The whole purpose of this is to disclose
18 as a candidate. My issues is that it's incomplete as a
19 candidate.

20 MEMBER WUKELIC: It's incomplete?

21 MEMBER GUY: As a candidate. There's nothing. It says
22 there's no changes as of last -- so as a candidate, it should
23 be complete. It says first-time filing. So it should be
24 complete as a candidate.

25 MEMBER WUKELIC: Why would it be incomplete?

1 CHAIR WESTFALL: I see none.

2 MEMBER GUY: Well, because no changes. Exactly. When
3 you're a first-time candidate, you don't have a precedent.

4 MEMBER LEACH: Are you looking at your --

5 MEMBER GUY: I'm sorry. Here. First-time filing.

6 CHAIR WESTFALL: Let's --

7 MEMBER LEACH: But I have one question. It would be
8 nice if the County Clerk was here to update it to us.

9 CHAIR WESTFALL: Yes.

10 MEMBER LEACH: Do they accept nomination papers without
11 financial disclosures?

12 MS. ANDRADE: They're not supposed to.

13 CHAIR WESTFALL: What makes this unique is this is the
14 only one we got. All the others have been in compliance. So
15 there's something that went wrong here. So I think in
16 fairness, let's just get a little more information. Because
17 we're just sort of going all around right now. Anyway, so
18 we'll hold those for the next meeting. Okay? Everyone all
19 right with that?

20 MEMBER SHERIDAN: Yeah.

21 Okay. Item B, Communication Items: None. Lobbyist
22 Registration: None. Announcements: None.

23 Next meeting will be Wednesday, September 12th, 2012.

24 And now we will go into Executive Session.

25 I'm sorry. Let me -- I'll mention it now under

1 Announcements. Let me go back here. I'm sorry, court
2 reporter. I'm just going to go back.

3 We don't have a spot on our agenda for the next agenda.
4 But, Angela, if you could add the two items that came out of
5 the Subcommittee onto the next agenda under New Business, maybe
6 Items D and E. And that would be a discussion as to issuing an
7 advisory opinion with respect to gifts.

8 MS. ANDRADE: Okay.

9 CHAIR WESTFALL: Item E would be a discussion as to
10 issuing an advisory opinion with respect to serving in
11 fiduciary capacities on nonprofit or profit boards as trustees,
12 because that's -- is that all right?

13 Okay. Onto Executive Session. Anyone want to read the
14 reamble? Carol Ann.

15 MEMBER GUY: Sure.

16 "With reference to the agenda items listed below, one
17 or more executive meetings are anticipated. In particular, the
18 Board of Ethics anticipates it will consider the evaluation,
19 dismissal or disciplining of an officer or employee of the
20 County of Maui, where considerations of matters affecting
21 privacy will be involved. The Board may also consult with the
22 Board's attorney on questions and issues pertaining to the
23 Board's powers, duties, privileges, immunities and liabilities.
24 Therefore, pursuant to Hawaii Revised Statutes Sections
25 92-5(a)(2) and (4), the following items may be considered in

1 Executive Session. The Board may also convene in Adjudicatory
2 Session pursuant to HRS Section 92-6."

3 Do you want me to read the agenda?

4 CHAIR WESTFALL: No, I'll go to the next spot.

5 (At which time, meeting recessed
6 into Executive Session.)

7 CHAIR WESTFALL: And I guess we need to go back to
8 Regular Session and get a motion to adjourn Regular Session.

9 MEMBER SHERIDAN: I move we adjourn regular session.

10 MEMBER WUKELIC: I second.

11 CHAIR WESTFALL: All those in favor, signify by saying
12 "aye."

13 (Round of ayes.)

14 CHAIR WESTFALL: No opposition. Seeing none, the
15 meeting is adjourned.

16 (Meeting adjourned 1:54 p.m.)

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, CAMMIE GILLETT, a Registered Professional Reporter,
Certified Shorthand Reporter for the State of Hawaii #438, do
hereby that the foregoing pages comprise a full, true and
correct transcript of the proceedings had in connection with
the above-entitled matter.

Dated this 3rd day of September 2012.



Cammie Gillett
Registered Professional Reporter
Hawaii Certified Shorthand Reporter #438