

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, December 12, 2012.

ORIGINAL

Reported by: Tonya McDade, CSR, CRR
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ATTENDANCE

BOARD MEMBERS PRESENT:

- Marti Wukelic, Acting Chair
- Donald Sheridan, Secretary
- C. Gretchen Guy, Member
- Sydney Kikuchi, Member
- Randol Leach, Member
- Norman Franco, Member
- Lois Prey, Member
- Lilah Inaba, Member

BOARD MEMBERS EXCUSED:

- Michael Westfall, Chair

STAFF PRESENT:

- Gary Y. Murai, Deputy Corporation Counsel
- Angela Andrade, Executive Secretary

1 (Wednesday, December 12, 2012, 12:30 p.m.)

2 * * *

3 ACTING CHAIR WUKELIC: Board of Ethics, Maui
4 County, meeting on Wednesday, December 12th, 2012, 12:30
5 p.m. In attendance are Lois Prey; Carolann Guy; Randol
6 Leach; Lilah Inaba; myself, Marti Wukelic; Don Sheridan;
7 Sydney Kikuchi; Norman Franco; and Corporation Counsel.

8 Have you had a chance to review the minutes of
9 our lightning-fast meeting last month? If so, if it
10 finds to your -- if it meets your pleasure, I'd like to
11 have a motion to accept them.

12 MEMBER SHERIDAN: I so move.

13 MEMBER PREY: Second.

14 ACTING CHAIR WUKELIC: And a second. All in
15 favor?

16 (Response.)

17 ACTING CHAIR WUKELIC: Opposed?

18 (No response.)

19 ACTING CHAIR WUKELIC: Okay. Do we have
20 public testimony? No public testimony today.

21 Old Business:

22 Finance disclosures, none. That doesn't
23 happen very often.

24 And under Communication Items, probably going
25 to get to the biggest item of the meeting which is the

1 scheduling of public hearing regarding amendments to
2 Chapter 04-101, Rules of the Maui County Board of
3 Ethics. And our Corporate Counsel has asked that he
4 explain something to you about it. So we'll turn it
5 over for Gary.

6 MR. MURAI: Thank you, Marti.

7 In the December 3rd "Maui News", you folks may
8 have noticed our notice of the public hearing for our
9 proposed rule changes, about four and-a-half pages long
10 in the smallest type that the rules allow, because they
11 charge by column inch. Anyway, it looks like we're all
12 set. The notice coincides with our next meeting, which
13 is probably going to be set today, for January 9th, at
14 12:30 p.m., here, in this conference room.

15 And I just wanted to kind of very briefly go
16 over the hearing procedure. I know that we've never
17 done a -- well, I don't think anyone on the Board now
18 has ever been on a rule change because I think the last
19 time these rules were amended might have been in the
20 nineties. It will be like any other hearing where
21 witnesses -- well, the public will be allowed to testify
22 and weigh in on the proposed changes. The Board may
23 have a discussion. This discussion will happen in open
24 session. And if the Board is prepared to make a
25 decision as far as approving, adopting or making any

1 amendments or changes to the rules, that's when that
2 happens.

3 Now, the Board may also not make a decision
4 that particular day, but they must announce a date where
5 a decision would be made. So, in other words, we could
6 begin the hearing next week. And if the Board decides
7 that they're ready to decide, we'll decide that day. If
8 not, we'll announce a date, probably at the next
9 hearing, for a decision to be made.

10 The only thing I ask is because this is
11 somewhat of a more formal kind of procedure than most of
12 the business we have, is that we follow, you know,
13 normal rules of order where if anyone has -- if any
14 Board Member has a question, whether it's for any
15 witness or for the Chair, that they first obtain the
16 floor. In other words, what I want to discourage is
17 people just, you know, speaking out, or two people
18 speaking at once. Otherwise, we don't -- now, Tonya is
19 the best, but sometimes even she has a hard time making
20 a real good transcript when two people are speaking at
21 the same time.

22 So that's about it in a nutshell. Anybody
23 have any questions about how we proceed from here on
24 this? Okay. Good.

25 MEMBER GUY: Did we say -- did we put an end

1 time in there? I didn't see it. Sorry.

2 MR. MURAI: End time as far as what?

3 MEMBER GUY: As our meeting.

4 MR. MURAI: No. I don't think we normally --
5 no. We're not --

6 MEMBER GUY: No. In the December 3rd
7 announcement, did you set an end time?

8 MR. MURAI: No.

9 MEMBER GUY: Okay. Good.

10 ACTING CHAIR WUKELIC: I don't think we've
11 ever --

12 MR. MURAI: Just a start time.

13 MEMBER GUY: Well, we've never had a public
14 hearing.

15 MEMBER FRANCO: Do you anticipate only one
16 hearing or maybe multiple? Depends on the --

17 MR. MURAI: It will just be one hearing. I
18 mean, I can see -- I don't anticipate it for this one,
19 but, you know, sometimes you'll see -- for example, when
20 you have Council hearings and you have 50 people signed
21 up to testify, they don't get through all the testimony.
22 So they may, you know, continue the hearing for another
23 date so that they can hear the rest of the testimony. I
24 suppose that the Board does have the discretion to do
25 that if that ever happened, but I rather doubt that's

1 going to be the case.

2 MEMBER FRANCO: What about written testimony?
3 Are you taking written testimony?

4 MR. MURAI: The Board may accept written
5 testimony, too.

6 MEMBER FRANCO: Some people can't make the
7 meeting, they might want to.

8 MR. MURAI: Right.

9 MEMBER FRANCO: When is the deadline to submit
10 that?

11 MR. MURAI: I don't think we specified a
12 deadline. You could walk in your written testimony that
13 day.

14 MEMBER FRANCO: Okay.

15 MR. MURAI: But, of course, you know, people
16 who are used to doing this kind of thing usually do it
17 early and make enough copies. Because if you're -- if I
18 am a witness, the main thing is that my testimony gets
19 to the members. So people who do this, who are
20 experienced, will know to get it in early, make enough
21 copies, so that their testimony is reviewed. If you
22 walk it in that day, then, you know, there's not a -- it
23 doesn't give the Members a real opportunity to read it
24 and review it, you know, while the hearing is going on.

25 MEMBER FRANCO: So we don't have to make a

1 decision that day? We can put it off until the
2 following meeting?

3 ACTING CHAIR WUKELIC: We can, but bear in
4 mind that what we're going to be reviewing is what we
5 have all agreed to already. And we're only -- it's only
6 going to be geared to issues brought up by the public.
7 And that's going to determine whether we want to hold it
8 or whether we want to just go ahead with it.

9 MR. MURAI: What Marti says is correct, by
10 now, especially, you know, we've been working on this
11 for now going on two years. I know that some of the
12 newer Members weren't involved in the early stages, but
13 we've all had the draft of these rules for some time
14 now. It's possible that a witness may come and convince
15 the Board to change its mind about something or the
16 witnesses may come and testify and convince the Board to
17 add a new chapter or whatever the case may be. So
18 that's why we -- there's always that possibility, which
19 is why we have our hearing, which is why we are required
20 to have a public hearing, where the public may come and
21 testify.

22 ACTING CHAIR WUKELIC: And as Gary said,
23 whether we make the decision in January or whether we
24 make it on another date, it will, once again, be public,
25 we will be making the final decision in public. So

1 there's never a time where we will just do it.

2 And, again, I haven't -- obviously, this is
3 the first time I've been in a rule change, but I've been
4 on the Board for almost five years now. And it's really
5 different when we have public testimony. It just -- it
6 does feel more formal because we have to give every
7 single person who speaks credibility. Yet, we also need
8 to keep it in the parameters of what we're trying to put
9 out there, if that makes sense. It's kind of a
10 balancing act a little. Does that make sense?

11 MR. MURAI: It does.

12 Okay. That's all I had. Thank you.

13 MEMBER GUY: One of the reasons that I asked
14 about the end time -- granted, this is a rule change, so
15 it may not generate as much interest and controversy as
16 one of the complaints that we set through for six hours,
17 I think, but, you know, I was thinking that let's hear
18 everybody in one day, even if we have to keep rolling
19 into the wee hours.

20 MR. MURAI: Well, the Board -- the Chair does
21 have the authority, the discretion, to limit testimony.
22 In other words, the Chair can impose, you know --

23 MEMBER GUY: Time limits.

24 MR. MURAI: -- time limits, yes.

25 ACTING CHAIR WUKELIC: And we may not have

1 that much. It's hard to tell.

2 Okay. Anything else on Item (b)?

3 (No response.)

4 ACTING CHAIR WUKELIC: Going on down the
5 agenda, I don't think we've held any subcommittee
6 meetings since last month. I will just go down quickly
7 and, if anybody has anything to comment, just let me
8 know. Rules Review Subcommittee.

9 MR. MURAI: Nothing to report.

10 ACTING CHAIR WUKELIC: Do we need to continue
11 the discussion this month regarding updating or changes
12 to the website?

13 MR. MURAI: You know what, I think we deferred
14 that. And we've asked the --

15 ACTING CHAIR WUKELIC: IT Department.

16 MR. MURAI: Right. Susan Underwood, the
17 Deputy Director for MIS, we've asked her to come another
18 date. Right, Angela?

19 MS. ANDRADE: Yes.

20 ACTING CHAIR WUKELIC: That makes sense.

21 MR. MURAI: And, Madam Chair, I also suggest
22 that we defer the discussion on the Complaint Form and
23 Financial Disclosure Statement Form.

24 ACTING CHAIR WUKELIC: I am just going to
25 briefly go through and see if anybody has any comments.

1 MR. MURAI: All right. The only reason I said
2 that is because the Chair, Mike Westfall, is taking the
3 lead on that. But I -- go ahead.

4 ACTING CHAIR WUKELIC: Okay. Item (e),
5 Complaint Form, (f), Financial Disclosure Form. Any
6 insights?

7 MS. ANDRADE: I have a comment. We haven't
8 really decided one way or the other what we're going to
9 do with the finance disclosure form. We talked about
10 eliminating the box that says, you know, there are no
11 changes, check this box, and then sign it. I want
12 confirmation on that because it's coming up to the
13 beginning of the year and I have to send a letter out
14 asking for everybody's update. So do we keep that
15 change or do we keep the original form when I send it?

16 MEMBER SHERIDAN: I move that we eliminate the
17 box.

18 MEMBER GUY: Second.

19 ACTING CHAIR WUKELIC: All in favor?

20 (Response.)

21 ACTING CHAIR WUKELIC: Opposed?

22 (No response.)

23 ACTING CHAIR WUKELIC: You got it. So,
24 hopefully, there is no continued discussion regarding
25 the status of financial disclosure statements. Yes?

1 And Review Annual Update of Financial
2 Disclosure Form Letters. Did you give us one?

3 MS. ANDRADE: Yeah. There is a letter, it's a
4 form letter, that goes out with the disclosure
5 statements to everybody who is required to turn one in.
6 This one only says mayor, all directors and deputy
7 directors, but there's also one that goes to board and
8 commission members and to councilmembers. And it,
9 basically, says the same thing. And I just wanted you
10 folks to look at it.

11 ACTING CHAIR WUKELIC: Just kind of refresh
12 us?

13 MS. ANDRADE: Right.

14 ACTING CHAIR WUKELIC: Okay.

15 MS. ANDRADE: This is what will go out the
16 beginning of January as a reminder.

17 ACTING CHAIR WUKELIC: It's fine with me as
18 is, yes? Okay.

19 Okay. Moving on to New Business, there are no
20 new Financial Disclosure Forms. There are no new
21 Communication Items. And the only new thing is Carol
22 Reimann's Lobbyist Registration, which makes last month
23 makes more sense. So I believe we only -- we don't even
24 have to formally acknowledge these, right? This is just
25 for our information and it's filed? And she will be

1 lobbying for Monsanto as a matter of public record now,
2 right?

3 MS. ANDRADE: Yes.

4 ACTING CHAIR WUKELIC: No new announcements.
5 Schedule -- the next meeting date will be January 9.

6 Okay. And as Gary said, this will be the public
7 testimony hearing for our new rules amendments. Okay.

8 Would somebody like to take us into Executive
9 Session?

10 MEMBER FRANCO: I will. End Regular Session
11 and move to Executive Session.

12 ACTING CHAIR WUKELIC: Okay. You have to read
13 the thing.

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

1 Session. The Board may also convene in adjudicatory
2 session pursuant so HRS Section 92-5.

3 (Recess to Executive Session, 12:46 p.m. to
4 12:48 p.m.)

5 ACTING CHAIR WUKELIC: We're now moving out of
6 Executive Session, back into Regular Session.

7 MEMBER SHERIDAN: Move to adjourn.

8 ACTING CHAIR WUKELIC: Now we talk about our
9 next meeting, which I should have done after I said
10 that. And now we will adjourn. We're adjourned.

11 (Meeting adjourned, 12:49 p.m.)

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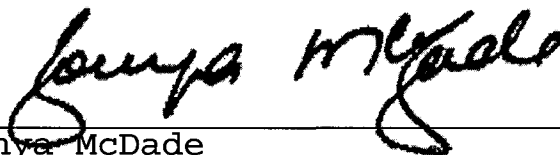
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CERTIFICATE

I, TONYA MCDADE, Certified Court Reporter of the State of Hawaii, 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 January, 2013.



Tonya McDade
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Registered Professional Reporter
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