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4 COUNTY OF MAUI, STATE OF HAWAII
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9 BOARD OF ETHICS
10 REGULAR MEETING
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16 Held at the Planning Department Conference Room,
17 250 South High Street, Wailuku, Maui, Hawaii, commencing
18 at 12:30 p.m., on Wednesday, October 9, 2013.
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22 Reported by: Tonya McDade, CSR, CRR
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1 ATTENDANCE
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3 BOARD MEMBERS PRESENT:
4 Michael Westfall, Chair
5 Randol Leach, Vice-Chair
6 Sydney Kikuchi, Member
7 Lois Prey, Member
8 Lilah Inaba, Member
9
10 BOARD MEMBERS EXCUSED:
11 Abel Kahooohanohano, Jr., Member
12 Herman Nascimento, Member
13
14 STAFF PRESENT:
15 Linden Joesting, Deputy Corporation Counsel
16 Angela Andrade, Executive Secretary
17
18 ALSO PRESENT:
19 Rod Antone
20 Ernest Takitani
21 Michael Ichimaru
22 Michele McLean
23 Glen Ueno
24
25

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1 (Wednesday, October 9, 2013, 12:30 p.m.)
2 * * *
3 CHAIR WESTFALL: We're going to go ahead and
4 start the meeting since this is actually on the agenda.
5 So we'll go ahead and call the meeting to order. Our
6 first item of business is the passing of our former
7 Vice-Chair Don Sheridan. And I will let Lois say a few
8 words about that.
9 MEMBER PREY: I just want to mention what a
10 lovely obituary in Sunday's paper, if you have seen
11 that. There will be a celebration of life. Clark will
12 let me know when it will be, then I will forward the
13 information to you. And he will be dearly missed.
14 CHAIR WESTFALL: Again, we need to bear with
15 your Chairman today since we're changing our process
16 here a little bit. So I will be relying on her.
17 Second item is election of a secretary to the
18 Board of Ethics. Do I have any nominations?
19 MEMBER PREY: I don't know if --
20 CHAIR WESTFALL: I think we can nominate
21 people who aren't here.
22 MEMBER PREY: Oh, okay. How about Norman?
23 VICE-CHAIR LEACH: I second that.
24 MEMBER KIKUCHI: Second.
25 CHAIR WESTFALL: Let's do this: All those in

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1 favor of Norman, signify by saying "aye."
2 MEMBER PREY: Unless, Sydney, you want to.
3 MEMBER KIKUCHI: No.
4 CHAIR WESTFALL: Do I have any other
5 nominations?
6 MEMBER INABA: No.
7 CHAIR WESTFALL: I figured that. All those in
8 favor of Norman being our Secretary for the remainder of
9 this term, which would be, I guess, until March, signify
10 by saying "aye."
11 (Response.)
12 CHAIR WESTFALL: Any opposition?
13 (No response.)
14 CHAIR WESTFALL: Seeing none, Norman is the
15 new Secretary.
16 Review and approval of September 11, 2013
17 minutes. Do I have a motion to approve the minutes?
18 MEMBER PREY: I motion that we approve the
19 minutes.
20 CHAIR WESTFALL: Do I have a second?
21 MEMBER INABA: Second.
22 CHAIR WESTFALL: Any discussion? Seeing none,
23 all those in favor of approving the minutes, signify by
24 saying "aye."
25 (Response.)

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<p>1 CHAIR WESTFALL: Any opposition? 2 (No response.) 3 CHAIR WESTFALL: Seeing none, minutes are 4 approved. 5 Do we have any public testimony today? I 6 don't see any. I am assuming you are all here for other 7 matters. 8 I am going to ask Members if we can suspend 9 the rules to bring Item 6 under New Business, (d), Media 10 Policy, so we can let the gentleman speak quickly and 11 get on his way. All those in favor -- or I guess I need 12 a motion to suspend the rules to change the agenda 13 slightly. 14 MEMBER PREY: I motion that we change the 15 rules and the agenda. 16 CHAIR WESTFALL: Suspend the rules to modify 17 the agenda. 18 MEMBER PREY: To modify, yes, the agenda. 19 CHAIR WESTFALL: Any objection? Seeing none, 20 all those in favor, signify by saying "aye." 21 (Response.) 22 CHAIR WESTFALL: Any opposition? 23 (No response.) 24 CHAIR WESTFALL: Seeing none, you can go ahead 25 and come on up to the podium.</p> <p style="text-align: right;">Page 5</p>	<p>1 The first one, I mean, do you have a definition 2 somewhere of what this body does? 3 CHAIR WESTFALL: Sure. 4 MR. ANTONE: Is it done? You can just direct 5 them to the website, you know, or fax it to 'em, "Here 6 it is." A lot of things nowadays, you can direct them 7 to a website somewhere and say, "Here you go, read it 8 for yourself," instead of, you know, reading it to them. 9 I mean, that's -- that's not -- now, if they want to 10 request for an interview on a certain subject, like 11 let's say you guys have an interesting case before you, 12 if the meeting -- these are public meetings, right? 13 CHAIR WESTFALL: We go into Executive Session 14 on a pretty regular basis. 15 MR. ANTONE: Okay. 16 CHAIR WESTFALL: So we do have a, I will say, 17 high degree of confidentiality in many matters. 18 MR. ANTONE: Okay. But, for instance, let's 19 say reporters saw the agenda today and decided he saw 20 something interesting. Can he walk in here and sit down 21 and listen? 22 CHAIR WESTFALL: In Open Session, yes. 23 MR. ANTONE: Okay. Okay. So if they're 24 asking about something that's coming up and it's an Open 25 Session, you can just say, "Oh, it's on our agenda. Why</p> <p style="text-align: right;">Page 7</p>
<p>1 MR. ANTONE: I want to go on the record to say 2 I didn't ask to be moved up. Michelle said, you know, 3 why do I get special treatment. They offered. 4 MS. McLEAN: Totally unfair. 5 MR. ANTONE: How can I help you folks today? 6 CHAIR WESTFALL: Sure. I guess I am the one 7 that initiated this several months back. I've been 8 getting calls from the media from time to time. Not 9 that we need to do anything, but just if your office had 10 any suggestions on how to handle that, or if there's a 11 protocol or anything like that? 12 MR. ANTONE: I guess, first, my first question 13 would be what kind of calls, what do they want, what are 14 they asking for? 15 CHAIR WESTFALL: What are they asking for? 16 They haven't been real clear. So I've been a little 17 reluctant -- I am being candid -- to engage them. One 18 was a radio program and they wanted some information on 19 what the Ethics Board does, how we operate, that kind of 20 thing. The other one was a little -- I assume it was a 21 newspaper person, but I wasn't clear what their question 22 was. 23 MR. ANTONE: Well, every reporter or news 24 organization that calls is going to have a different 25 request, so you gotta take 'em phone call by phone call.</p> <p style="text-align: right;">Page 6</p>	<p>1 don't you come check it out next week?" If it's 2 something that happened, you can refer them to the 3 minutes. How often -- I mean, how quickly do the 4 minutes come out for public consumption? 5 MS. JOESTING: Within 30 days. 6 CHAIR WESTFALL: Within 30 days. 7 MR. ANTONE: 30 days, okay. If they're 8 working on deadline, you could, if you chose to, provide 9 a gist of what happens. You are, by no means, required 10 to go, you know, minute by minute, blow by blow what 11 happened in the meeting, but you can, if you want, say, 12 "Well, you know, you can check this out for yourself in 13 30 days, but the gist of it was this was before us and 14 this is the action we took." You know, like I said, it 15 really depends on what the request is. 16 CHAIR WESTFALL: Any Members have questions? 17 VICE-CHAIR LEACH: Just one question. With 18 regard to the minutes, are those minutes that are made 19 available after we approve those at a subsequent meeting 20 or -- 21 MS. JOESTING: They don't have to be approved 22 in order to be made public. 23 VICE-CHAIR LEACH: Okay. Thank you. 24 MS. ANDRADE: To further answer your question, 25 they're put up on our website, after approval, they are</p> <p style="text-align: right;">Page 8</p>

1 made public to anybody who wants to read it.
 2 VICE-CHAIR LEACH: After our approval at the
 3 next meeting. What about before then?
 4 MS. ANDRADE: Before that, if anybody wants
 5 them, they can call me and I can forward it to them. I
 6 don't actually put them on the website until after, but
 7 they are available once Tonya sends them to me.
 8 VICE-CHAIR LEACH: Thank you.
 9 MR. ANTONE: I just want to throw out there,
 10 at some point, you may have a really interesting case
 11 that the media might be pursuing, like -- I am not going
 12 to even speculate right now, but let's say it involves
 13 high profile members of the Council or the
 14 Administration. And you could -- you can put out a
 15 press release, if you like. The Mayor's Office does not
 16 put out press releases for boards or commissions because
 17 you folks are a separate entity, and it is important to
 18 maintain that, you guys work independently of the
 19 Administration and the Council.
 20 However, I'd be happy to provide a media list
 21 which someone from your office could then email out
 22 themselves. It's a very comprehensive list, it's a Maui
 23 media list. And we also have a statewide list. We have
 24 a super list, which goes to members of Congress, but we
 25 don't use that.

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1 CHAIR WESTFALL: We don't need the super list.
 2 MR. ANTONE: I can't imagine, but that list is
 3 available should, you know --
 4 CHAIR WESTFALL: Okay. Great.
 5 MR. ANTONE: Yeah.
 6 CHAIR WESTFALL: Any other questions? All
 7 right. I think we -- I think we appreciate your time,
 8 then. Thank you for the information.
 9 MR. ANTONE: No problem.
 10 CHAIR WESTFALL: We'll go back to the agenda.
 11 Item 5, Old Business, no Financial Disclosures this
 12 month.
 13 No Communication Items.
 14 (c), Reconstitute Research Subcommittee into a
 15 Permitted Interactive [sic] Group. Just as sort of an
 16 update here, the Research Subcommittee has -- and the
 17 members were Lois, Norman and myself, and previously
 18 Don. We've more or less concluded the research, and
 19 we've actually written a very thick report. The Members
 20 have all read it. I've turned it over to our legal
 21 advisor, and she's now reviewing it. So I am going to
 22 meet with her before the next meeting to go over to see
 23 if she has any substantive changes to the content, if
 24 you will. And, hopefully, we can agenda on the next
 25 meeting that we would go over that with the Members.

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1 The second item which, unfortunately, we don't
 2 have here, but I am just going to make a word for
 3 Sydney's benefit, we're going to have another
 4 subcommittee to look at the Charter provisions. As I
 5 mentioned, Mike White is pushing for some changes there.
 6 So, Sydney, is it okay, just administratively, if you
 7 serve on that new one?
 8 MEMBER KIKUCHI: Sure.
 9 CHAIR WESTFALL: Rather than that -- because
 10 the other commission -- or the other subcommittee's
 11 probably going to have one meeting and that's going to
 12 be it. So I will hold you off for the next one.
 13 MEMBER KIKUCHI: Sure.
 14 CHAIR WESTFALL: If that's okay.
 15 MEMBER KIKUCHI: Yes.
 16 CHAIR WESTFALL: So I think that covers Item
 17 (c). Everyone understands what is going on there?
 18 MEMBER PREY: Can I make a statement?
 19 CHAIR WESTFALL: Sure.
 20 MEMBER PREY: I just want to point out and
 21 thank Michael for all the hard work he did on the
 22 53-page report.
 23 CHAIR WESTFALL: Yeah, it's a little long.
 24 MEMBER PREY: It took hours and hours, and you
 25 still have your hair on your head. Really, I want to

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1 thank you, because that was very hard work to do to get
 2 that all, you know, coordinated and thought about and so
 3 forth. So thank you again, Michael.
 4 CHAIR WESTFALL: Thank you. Okay. Now we're
 5 on to Item (d), County Building Inspector Michael
 6 Ichimaru's request for advisory opinion on whether he
 7 may have a condominium and residential remodeling
 8 business in Maui County while working for the Department
 9 of Public Works. This is item 13A-03.
 10 And we have a new process here. I will ask
 11 that we go into Executive Session under HRS 92-5. And
 12 the exemption is to consult with the Board's attorney on
 13 questions and issues pertaining to the Board's powers,
 14 duties, privileges, immunities and liabilities. Do I
 15 need a motion for that?
 16 MS. JOESTING: Yes.
 17 CHAIR WESTFALL: Can I get a motion for that?
 18 MEMBER INABA: I move that we adjourn to
 19 Executive Session.
 20 MEMBER PREY: Second.
 21 CHAIR WESTFALL: And do I have a second?
 22 Lois?
 23 MEMBER PREY: Yes.
 24 CHAIR WESTFALL: Any discussion? All those in
 25 favor, signify by saying "aye."

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1 (Response.)
 2 CHAIR WESTFALL: Any opposition?
 3 (No response.)
 4 CHAIR WESTFALL: Seeing none, we will now go
 5 into Executive Session.
 6 (Recess to Executive Session, 12:45 p.m. to
 7 12:58 p.m.)
 8 CHAIR WESTFALL: Okay. So we're now back in
 9 Regular Session. So what we're going to do is start
 10 with the deputy and then the supervisor and then we'll
 11 let you come up and make any comments about anything
 12 you've heard.
 13 MR. TAKITANI: I want to hear what you guys
 14 have to say.
 15 CHAIR WESTFALL: Just let us know your name
 16 for the record, and your position.
 17 MS. McLEAN: Good afternoon, Chair, Board
 18 Members. My name's Michele McLean, I am the Deputy
 19 Planning Director.
 20 CHAIR WESTFALL: Do Members have questions or
 21 do you have anything you want to say?
 22 MS. McLEAN: No. We were notified yesterday
 23 or the day before that we were asked to come today --
 24 CHAIR WESTFALL: Okay.
 25 MS. McLEAN: -- to answer questions.

1 the Public Works Department. And I am the Deputy
 2 Planning Director.
 3 MS. JOESTING: I'm sorry. It's supposed to be
 4 the deputy for --
 5 MEMBER KIKUCHI: Oh, okay. So in terms of --
 6 MS. McLEAN: No, we don't have a policy
 7 that --
 8 MEMBER KIKUCHI: Okay. You can take away that
 9 question.
 10 CHAIR WESTFALL: We have the wrong department.
 11 MS. ANDRADE: Sorry about that.
 12 MS. McLEAN: Yeah. That's why we weren't
 13 quite sure why we were here.
 14 CHAIR WESTFALL: I think we have the wrong
 15 department. I apologize.
 16 MS. McLEAN: Okay. Okay.
 17 CHAIR WESTFALL: You're excused. Is Angela
 18 going to try to get someone?
 19 MS. ANDRADE: Yeah. Sorry about that.
 20 CHAIR WESTFALL: Why don't we --
 21 MEMBER KIKUCHI: I can make a comment to Ernie
 22 and Mike, but that's -- that would be my big question
 23 for me.
 24 MS. McLEAN: Can I go?
 25 CHAIR WESTFALL: Yeah.

1 CHAIR WESTFALL: Okay. Fine.
 2 MS. McLEAN: I am happy to answer questions.
 3 We don't have any statement to make.
 4 CHAIR WESTFALL: Let's go ahead and do what we
 5 normally do. So, Sydney, do you have any? Starting
 6 with you.
 7 MEMBER KIKUCHI: I will start it off.
 8 Michele, just, I think, for me, the pressing question
 9 was, as a department, as a department, when I -- when we
 10 first looked at Michael's request for advisory opinion,
 11 the first thing that came to my mind, actually, was what
 12 does the department, especially the director or the, in
 13 your case, deputy director have to say about this, is
 14 there a policy or procedure that's written to guide that
 15 process, which is what he is requesting. And if there
 16 isn't, then maybe there should be. I am not telling you
 17 what to do. I was just thinking maybe they should be --
 18 I am sure this will come up again somewhere along the
 19 line and for the benefit of everyone involved, like,
 20 especially the employees, that they have a guideline
 21 that will tell them that this is accepted or not
 22 accepted. So just a -- just a question. Do you have
 23 any written policy or procedure regarding this issue?
 24 MS. McLEAN: I will answer that question by
 25 saying they're not within my department. They're within

1 MEMBER KIKUCHI: That's where it's coming
 2 from. I think there should be kind of a guideline
 3 there.
 4 MR. TAKITANI: May I come up?
 5 CHAIR WESTFALL: Why don't you go ahead and --
 6 MR. TAKITANI: Ernie Takitani, Supervising
 7 Building Inspector. As far as I know, there is no
 8 guidelines. There has been a ruling on a previous
 9 question asked by Jeffrey Dela Cruz. This is over 20
 10 years ago. There was a decision made. And because
 11 Jeffrey was drawing plans and he was also the plans
 12 reviewer at the time, that would have been a direct
 13 conflict. So the decision came down that they did not
 14 want him to do that. Okay. So he resigned from the
 15 County and he went out on his own. And that's the only
 16 decision I know that was ever handed down by the Board
 17 of Ethics.
 18 CHAIR WESTFALL: Go ahead, Sydney. We'll let
 19 Sydney go.
 20 MEMBER KIKUCHI: Through all the years you've
 21 been working in the department, just your opinion, do
 22 you think there should -- should there be something
 23 written, I mean, in policy and procedure, that will
 24 guide you, guide the department and the employees
 25 through this after -- because it's such a -- I think

1 it's a fine line as far as the requests.
 2 MR. TAKITANI: I hear you. And I think in
 3 fairness to employees, everybody should be treated
 4 differently. And I mean differently in the sense of
 5 your job, what you do and what you are requesting. If
 6 you can do your job and not jeopardize it because you're
 7 not inspecting it -- like in Michael's case, okay, he
 8 would be -- say he -- he applied for a permit, he's the
 9 manager of the project, he manages and does all of his
 10 work after hours, he doesn't inspect the project, which
 11 is what happens right now. If you -- if you have a
 12 project that you are working on, helping your friends,
 13 you cannot go and inspect it. We don't allow that. So
 14 someone else in our department will go ahead and inspect
 15 that project, even if it's in your area.
 16 VICE-CHAIR LEACH: Is that a written --
 17 MR. TAKITANI: No, it's just what we do in our
 18 department. Just it avoids conflicts that way, yeah.
 19 You working on it, it's kind of like, hey, take care of
 20 my job. Yeah. No, we don't do that.
 21 CHAIR WESTFALL: Randol, you're up next.
 22 VICE-CHAIR LEACH: Following Sydney's
 23 questioning, in your years in the department, has this
 24 ever come up before, an employee having a business,
 25 getting their jobs --

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1 MR. TAKITANI: No.
 2 VICE-CHAIR LEACH: -- inspected? They never
 3 had side contracting businesses?
 4 MR. TAKITANI: No. It's just like Michael,
 5 for example, he had his contractor's license prior to
 6 coming into the -- our department. He decided for a
 7 number of years, three years, he put his license
 8 inactive, okay, which is what we request when you do
 9 come in. And because he was getting an influx from his
 10 older clients to do remodel jobs, repair, upgrades, he
 11 brought his back out. And that's where this whole thing
 12 came about, when he applied for a permit, and it was
 13 brought to our attention that, hey, Michael is applying
 14 for a permit, is that not part of a conflict. So we
 15 asked Michael to ask for this decision.
 16 VICE-CHAIR LEACH: So do you think it's
 17 similar that -- say you were -- you needed a permit for
 18 your own primary residence, and you go to the department
 19 for the inspection, that the procedure would be the same
 20 for if you had a business and that client inspected it?
 21 MR. TAKITANI: Well, like I had said prior in
 22 my last time I was up here, I did that. I had
 23 referenced I had to get a permit for my own house. I
 24 built the thing. I had -- for every inspection that was
 25 required to be done, I had three inspections done. And

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1 the last one was done by the supervisor of the
 2 department. And it was only because of a director saw
 3 me working on my house one day.
 4 CHAIR WESTFALL: Any questions?
 5 MEMBER INABA: How do you folks -- I mean,
 6 like do you say that if a friend is doing their house,
 7 and like it's Michael's friend, that Michael couldn't go
 8 and inspect it? How do you assure that that's
 9 disclosed? I mean --
 10 MR. TAKITANI: No, I didn't say -- if that's
 11 what I said, that's not what I meant.
 12 MEMBER INABA: I'm sorry.
 13 MR. TAKITANI: What I meant to say, if that
 14 was the case, if Michael is helping his friend build a
 15 house, and not under his license, but just helping his
 16 friend, Michael would say to us, you know what, I am
 17 working on that project, can somebody else go do this
 18 inspection. And it's kind of a code between --
 19 MEMBER INABA: Yeah.
 20 MR. TAKITANI: -- building inspectors. You
 21 don't inspect your own jobs or the jobs that you're
 22 working on.
 23 VICE-CHAIR LEACH: How about people that are
 24 good friends, that you haven't done the work on, or like
 25 your next door neighbor?

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1 MR. TAKITANI: I inspected my next door
 2 neighbors. As a matter of fact, I even put a notice of
 3 violation on them. Same thing. You know, we do the
 4 same thing for anybody.
 5 VICE-CHAIR LEACH: So you wouldn't say, oh, I
 6 know them, they're good friends?
 7 MR. TAKITANI: I cited my mother. I'm sorry
 8 to say that, but my mother was doing work at one time
 9 without a permit. And as much as I tried to tell her,
 10 "You need a permit, mom."
 11 VICE-CHAIR LEACH: So there's no real written
 12 policy on that, either, inspecting family or friends?
 13 MR. TAKITANI: No. No. One of our questions,
 14 when they come in for an interview for the job, is if
 15 there was a request for service that came in and it was
 16 against your family, would you be able to go to your
 17 family and do your job properly.
 18 VICE-CHAIR LEACH: Thank you.
 19 CHAIR WESTFALL: Lois, you're up?
 20 MEMBER PREY: Mr. -- according to this,
 21 Mr. Bill Scrote or Scrote.
 22 MR. TAKITANI: Scrote.
 23 MEMBER PREY: Scrote. Does he happen to be a
 24 close friend of Michael?
 25 MR. TAKITANI: We are all in the same office,

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1 we work together.
 2 MEMBER PREY: Oh, okay. So he's not a close
 3 friend, then, to Michael?
 4 MR. TAKITANI: I don't think --
 5 MEMBER PREY: Because he does the inspection
 6 in his Kihei --
 7 MR. TAKITANI: Yeah. He is in the Kihei area
 8 at the time, yes.
 9 MEMBER PREY: Yeah.
 10 MR. TAKITANI: But our inspectors, every once
 11 in a while, will rotate area. Okay. So right now, it
 12 is Bill, yes.
 13 MEMBER PREY: Okay. Okay. Thank you.
 14 CHAIR WESTFALL: Going back to Sydney.
 15 MEMBER KIKUCHI: No.
 16 MR. ICHIMARU: May I say something about that?
 17 MEMBER PREY: Yeah, sure.
 18 MR. ICHIMARU: I know you folks --
 19 CHAIR WESTFALL: Can you just wait? Because
 20 what's going to happen is, I'm sorry, it's going to get
 21 confusing for the transcript. So just hold your
 22 thoughts. We'll let you speak in just a minute.
 23 MEMBER PREY: Yeah.
 24 CHAIR WESTFALL: Let me go around. Sydney, do
 25 you have any more questions for Mr. Takitani?

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1 MEMBER KIKUCHI: No.
 2 VICE-CHAIR LEACH: Just for information, when
 3 you do an inspection, what percentage get approved on
 4 the first visit?
 5 MR. TAKITANI: You know, it depends on the
 6 person doing the work. Most of the time, if you have a
 7 general contractor doing the work, you're very likely
 8 going to get it passed the first time. But when you
 9 have homeowner builders and they're not familiar, they
 10 have their friends come in and help them, whatever, we
 11 find numerous things wrong that they get failed on.
 12 VICE-CHAIR LEACH: So the licensed
 13 contractors, usually no problem?
 14 MR. TAKITANI: Usually they know better. Yes.
 15 VICE-CHAIR LEACH: Thank you.
 16 CHAIR WESTFALL: I am going to go back to our
 17 legal representative.
 18 MS. JOESTING: Well, there might be other
 19 questions. Did you have a question?
 20 CHAIR WESTFALL: I'm sorry.
 21 MEMBER PREY: The gentleman wanted to --
 22 CHAIR WESTFALL: Yeah. Okay. Let's go back
 23 to Lilah. Do you have any -- Lois, do you have any
 24 more?
 25 MEMBER PREY: No.

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1 CHAIR WESTFALL: Then I guess you can.
 2 MR. TAKITANI: Done?
 3 CHAIR WESTFALL: Yes. Thank you so much.
 4 We're a little out of turn here.
 5 MS. JOESTING: It's all right. I have a
 6 couple questions for him.
 7 CHAIR WESTFALL: I'm sorry. I misunderstood
 8 what you were saying. She has some questions for you.
 9 MS. JOESTING: May I ask just a couple
 10 follow-up questions? If this arrangement is set up
 11 where he does not supervise -- I mean, he doesn't
 12 inspect his own work, do you think that there would be
 13 any interference with the proper discharge of his other
 14 duties?
 15 MR. TAKITANI: Of his duties, no, I don't
 16 think so. Michael has been one of our better
 17 inspectors. Okay. Not saying that everybody else is
 18 not good, but he's one of the better ones.
 19 MS. JOESTING: Do you think it would impair
 20 his judgment in any way?
 21 MR. TAKITANI: I would hope not. And if, for
 22 some reason, this thing was granted to him and if it
 23 ever came up that he stepped over the boundaries, I
 24 would like to have the approvals taken away.
 25 MS. JOESTING: Okay. If that is the case,

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1 then you can always come back.
 2 CHAIR WESTFALL: Sydney had another question.
 3 MEMBER KIKUCHI: Ernie, your position is union
 4 or --
 5 MR. TAKITANI: Union.
 6 MEMBER KIKUCHI: Okay.
 7 CHAIR WESTFALL: Any other questions for
 8 Mr. Takitani? Seeing none -- I'm sorry. You're the --
 9 MS. JOESTING: If there's no further
 10 questions, then we can excuse him.
 11 CHAIR WESTFALL: Okay.
 12 MS. JOESTING: Thank you, Mr. Takitani.
 13 CHAIR WESTFALL: The gentleman that came in, I
 14 guess, I am assuming, you represent Public Works?
 15 MR. UENO: I just got a call from David Goode
 16 to come.
 17 CHAIR WESTFALL: If you could come to the
 18 podium. I am not sure -- are you aware what is
 19 transpiring?
 20 MS. JOESTING: Can you introduce yourself, say
 21 your name and --
 22 MR. UENO: My name is Glen Ueno, I am the DSA
 23 Administrator.
 24 MS. JOESTING: What does DSA stand for?
 25 MR. UENO: Development Services

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1 Administration.
 2 CHAIR WESTFALL: Okay.
 3 MS. JOESTING: Do these people fall under you?
 4 MR. UENO: Yes. Yes.
 5 MS. JOESTING: Well, thank you for coming at
 6 such short notice.
 7 MR. UENO: Okay.
 8 CHAIR WESTFALL: Sorry. And you're aware of
 9 what is transpiring as far as --
 10 MR. UENO: A little. I just became the
 11 administrator in July, so, yeah.
 12 CHAIR WESTFALL: Essentially what we're doing
 13 here is this an opportunity FOR Members of the Ethics
 14 Commission to ask questions. So I will start with
 15 Sydney and see if Sydney has any questions.
 16 MEMBER KIKUCHI: Okay. Just the main question
 17 I have is Michael made a request for an advisory opinion
 18 regarding like outside employment or outside work which
 19 may or may not be in conflict with his present duties.
 20 So that -- it's not the same type of advisory request
 21 that may have passed through us before, but it's
 22 similar. And in the few cases that I've seen, few cases
 23 that I've looked at and heard about, there was always a
 24 question in my mind regarding what does the department
 25 head or the management have to say regarding that

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1 management's position.
 2 MR. UENO: Well, I understand. I didn't know
 3 it was only advisory. I thought it was the law, you
 4 know. So --
 5 MEMBER KIKUCHI: No.
 6 MR. UENO: But, yeah, I mean, I understand
 7 what you're saying.
 8 MEMBER KIKUCHI: Okay.
 9 MR. UENO: Yeah, I understand what you're
 10 saying.
 11 MEMBER KIKUCHI: That's it.
 12 CHAIR WESTFALL: Randol.
 13 VICE-CHAIR LEACH: Do you think there should
 14 be a department policy on employees' outside businesses?
 15 MR. UENO: Again, from what little I know, I
 16 thought this was the Board that made the policy or
 17 decided that on a case by case basis. So that's why
 18 maybe there isn't a policy.
 19 VICE-CHAIR LEACH: Yeah. The Police and Fire
 20 Department, they have written policy --
 21 MR. UENO: Oh, okay.
 22 VICE-CHAIR LEACH: -- for their staff.
 23 MR. UENO: Yeah.
 24 VICE-CHAIR LEACH: But, again --
 25 MR. UENO: I'm not aware that the Department

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1 request. Because there's no mention of it, there's no,
 2 whether it be unwritten or written, policy or procedure
 3 to address that situation. So the question is, do you
 4 have anything written that can guide them in this type
 5 of request? And if you don't, then is that something
 6 that maybe should be considered because it's -- it's
 7 such a touchy subject.
 8 MR. UENO: Right. I mean, I don't really know
 9 of the details for this, but, you know -- and, again, I
 10 just was appointed in July, but I'm not aware of any
 11 policy that we have dealing with this situation.
 12 MEMBER KIKUCHI: Okay. This is more of a
 13 statement than a question for you. I find that when
 14 they -- when that type of request for an opinion comes
 15 in, I find like it's -- it's like a backward request
 16 asking our Board to give an advisory if it's ethical or
 17 not versus where -- where I am thinking that, actually,
 18 the department head or the deputy department head should
 19 be making that decision, whether it's ethical or not.
 20 And if it is, if they're going to allow it, these are
 21 the guidelines or this is the procedure on how we going
 22 to address that situation. Because if we -- if we
 23 render an advisory opinion, which we don't have to
 24 follow, but I find it that it puts -- whether pressure
 25 or not -- well, like it cuts the legs out of the

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1 of Public Works --
 2 CHAIR WESTFALL: For education, what we
 3 provide is an advisory opinion, basically it's the
 4 Board's thoughts on what you might do to mitigate the
 5 possibility that you might be violating one of the
 6 ethics codes which is in the Charter. Whether you do
 7 anything or not, it's still -- that still comes back to
 8 you.
 9 MR. UENO: Yeah. My understanding, I thought
 10 it wasn't just advisory. If they said he shouldn't be
 11 doing it, you know, you're not supposed to do it, yeah.
 12 CHAIR WESTFALL: Anyway, Lilah, do you have
 13 any questions?
 14 MEMBER INABA: No.
 15 CHAIR WESTFALL: Lois, Sydney, any more
 16 questions?
 17 MEMBER KIKUCHI: No.
 18 CHAIR WESTFALL: I know you're going to have
 19 two.
 20 MS. JOESTING: If an employee has a financial
 21 interest outside of his job that is in the same field of
 22 work, do you think that has any impact on his judgment?
 23 MR. UENO: I mean, could you give a more
 24 specific situation?
 25 MS. JOESTING: Let's say someone is making

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1 money doing the same thing outside of their job that
 2 they do in their job. Is that going to be a problem?
 3 MR. UENO: Possibly. Possibly.
 4 MS. JOESTING: What would be ways that you
 5 could either remove or minimize the problem?
 6 MR. UENO: Again, without knowing the specific
 7 situation, it's hard to answer, but, I mean, somehow
 8 there would be some kind of monitoring or oversight.
 9 MS. JOESTING: Okay. That's fair. Do you
 10 think that if Mr. Ichimaru has an outside business doing
 11 remodeling work, do you think that would be able to
 12 impact his job during the day?
 13 MR. UENO: It could be. I mean, depends on
 14 the extent of the work.
 15 MS. JOESTING: Do you think it would impair
 16 the independence of his judgment in his job?
 17 MR. UENO: I am not sure.
 18 MS. JOESTING: That's fair. Thank you.
 19 CHAIR WESTFALL: Any other questions, Members?
 20 Okay. You may be excused. Thank you so much for coming
 21 at such short notice. We appreciate that. Okay.
 22 Michael, you can go ahead. You can make comment on
 23 anything you want, you can address Lois first, then what
 24 we'll do is we'll go back.
 25 MR. ICHIMARU: I am Michael Ichimaru. I am

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1 the one that's asking for your advisory opinion
 2 regarding doing remodeling, basically, management. I am
 3 a general contractor. So just to give you a little bit
 4 of history, I have been contracting for about 30 years,
 5 15 years in San Francisco, California area, then --
 6 almost 20 years. And my history is I've always looked
 7 for building inspectors to, basically, give me guidance
 8 in regards to what I am doing and that what I am doing
 9 is correct. I don't know if you know many contractors.
 10 Contractors really don't jump into the code book that
 11 often. What they -- what they're hoping is that the
 12 inspectors are going to be able to give them information
 13 if they're doing something incorrectly. That's been my
 14 history. And I find it to be true with most contractors
 15 here. If we don't tell the contractors that we're in
 16 the 2006 Code for one specific area, smoke detectors
 17 have to be interconnected, the Electrical Code doesn't
 18 pick that up, so if we don't inform them, more often
 19 than not, they're not interconnected. And you can
 20 understand if a house is built and it's a stacked roof,
 21 cathedral vaulted ceiling, and they've got smoke
 22 detectors, it's not a good situation. So that's one
 23 area where I can tell you we -- we help the contractors
 24 and give them the knowledge, because they -- they really
 25 don't get into the code book.

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1 What I am asking -- what I was going to say to
 2 you is, as a Building Inspector, all the inspectors that
 3 we have today, it's a pretty new crew. The gentleman
 4 that has the most tenure, I think, has about eight or
 5 eight and-a-half years. So most of us -- I've had
 6 three, a little over three, three. And I think Bill has
 7 maybe five or six. Jeremy has a couple, Jeff Townsend
 8 has a couple years. Then we just brought on a new
 9 fellow. We working together, we do cover other areas
 10 because people get sick or people have to be on vacation
 11 or whatever. So we do cover each other. We never -- my
 12 experience with all the guys that I've worked with here
 13 in the department, we never expect somebody to give us,
 14 quote, any kind of favors, especially relating to code,
 15 because it really doesn't help anybody.
 16 You were asking about family, if we help a
 17 family member slide on something that's a code
 18 violation, it's just going to come and bite them -- or
 19 it could come and bite them in the tail down the road,
 20 you know, it could hurt them when they go to sell a
 21 house. So it's not in our interest to do something in
 22 that nature, because it just doesn't really work well.
 23 Our job, basically, is to -- is to educate
 24 people with the code and enforce the code.
 25 MEMBER PREY: Michael?

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1 CHAIR WESTFALL: I'm sorry, Lois. I see her.
 2 Are you through with your comments or --
 3 MR. ICHIMARU: I could go on, but she may have
 4 questions.
 5 CHAIR WESTFALL: What I am going to do, Lois,
 6 is reverse the order. We'll start with you.
 7 MEMBER PREY: Okay. I just want to ask you,
 8 do you work on a time basis? Like say, for instance,
 9 you're issued a job and you have to get it done in like
 10 three days or, you know --
 11 MR. ICHIMARU: Sometimes it's that way, yeah.
 12 I mean, you know, depending on the project.
 13 My work goes like this. I have people that --
 14 I have people that work for me that worked for me for
 15 about eight or nine years. I, basically, lay them out
 16 prior to the job. After my working hours, we go over
 17 things. And that's -- that's how my work is done. I
 18 depend pretty much on couple of my employees because
 19 they're key people.
 20 MEMBER PREY: So there is some kind of a time
 21 involved?
 22 MR. ICHIMARU: Like I said, yeah, every job,
 23 there's a time limit.
 24 MEMBER PREY: Is there a time, also, on the
 25 extra jobs that, you know, you do in the evening?

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1 MR. ICHIMARU: Okay. Let me get -- when you
2 said time limit, were you saying about my County
3 position?
4 MEMBER PREY: Yes, your County and your
5 private.
6 MR. ICHIMARU: Okay. My private work I do off
7 hours. Okay. And my County job is from 6:45 to 3:30.
8 Okay. That's when I have the time to come in and do
9 paperwork, set up my route, obviously go out and make my
10 inspection, come back, record the inspection results,
11 and then work on other things such as requests for
12 services.
13 MEMBER PREY: Okay.
14 MR. ICHIMARU: Make your complaints,
15 basically.
16 MEMBER PREY: Say, for instance, I call you
17 and I say, Michael, I need this done in two days.
18 MR. ICHIMARU: They talk to my -- my -- my --
19 basically, my general supervisor.
20 MEMBER PREY: I see. Then you go from there
21 whether it can be done in two days or three days or
22 whatever?
23 MR. ICHIMARU: Well, in the beginning, the
24 timeframe -- I will give them a timeframe. Okay. Only
25 if they come in and try to alter a timeframe that I tell

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1 went in and I applied for a permit. That's -- that's
2 when this came up. And then, you know, I felt, you
3 know, let's get an opinion from the Board, see what they
4 have to say.
5 VICE-CHAIR LEACH: Thank you.
6 CHAIR WESTFALL: Sydney?
7 MEMBER KIKUCHI: No.
8 MS. JOESTING: I just want to mention, you
9 brought in -- Mr. Ichimaru brought in a couple of
10 references from people he's done work for. And I will
11 submit that to the Chair. You guys can read those when
12 you get time.
13 CHAIR WESTFALL: Okay. I will circulate
14 these.
15 MS. JOESTING: Just to confirm, you get
16 compensation or paid for your outside work?
17 MR. ICHIMARU: Yes, I do.
18 MS. JOESTING: Are you the principal in your
19 company? Are there other people?
20 MR. ICHIMARU: I am the principal.
21 MS. JOESTING: Do you feel that having this
22 outside work affects the performance of your existing
23 service.
24 MR. ICHIMARU: My job at the County?
25 MS. JOESTING: Right.

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1 them, you know, you need to talk to my -- my general
2 supervisor, he knows what our schedule is, what can be
3 done and what can't be done.
4 MEMBER PREY: I see. Okay. Thank you.
5 CHAIR WESTFALL: Okay. Lillah?
6 MEMBER INABA: No.
7 VICE-CHAIR LEACH: Just one question. So the
8 business has been ongoing for a number of years?
9 MR. ICHIMARU: Yeah. When I came on, I -- I
10 put my license inactive. Then what happened is that,
11 like Ernie said, had some clients call me, some old
12 clients that wanted me to do work. But the main reason
13 was financially, I had to -- I had some financial
14 responsibilities that I had to make and I needed to
15 bring some income in. And that's part of the other
16 reason why I reactivated my license.
17 VICE-CHAIR LEACH: So there has been some jobs
18 that have been inspected?
19 MR. ICHIMARU: Oh, yeah. Prior to, yeah, my
20 license from -- here from, I think, '97, '96, until when
21 I took it inactive three years ago.
22 VICE-CHAIR LEACH: So what prompted you to
23 turn the light on and say, well, maybe I should go to
24 the Board of Ethics for an opinion?
25 MR. ICHIMARU: Well, to be honest with you, I

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1 MR. ICHIMARU: Not at all.
2 MS. JOESTING: Do you think it would have any
3 impact on your judgment?
4 MR. ICHIMARU: See, that's what, yeah, I don't
5 -- I really don't think so whatsoever. Because when you
6 say my judgment, it would be my judgment in making
7 inspections that I make?
8 MS. JOESTING: In the County work.
9 MR. ICHIMARU: Yeah, not at all. Not at all.
10 You know, I -- just to let you know, I think that as a
11 County employee, our responsibility is basically to,
12 like I said, give guidance to the -- you know,
13 ultimately, the homeowner in regards to what's being
14 done on what -- whatever type of project we inspect.
15 That's ultimately who is going to gain or lose from it.
16 If we don't do our job, they're the person that's going
17 to lose in the end. So I think all of us feel we have
18 responsibility as inspectors.
19 MS. JOESTING: Well, I think it's really good
20 of you to come forward and ask for an opinion and be so
21 frank with the Board.
22 MR. ICHIMARU: Sure.
23 CHAIR WESTFALL: Do you have any other
24 comments or any other questions, Members?
25 MR. TAKITANI: I want to make one more

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1 comment.
 2 CHAIR WESTFALL: Sure. Why don't you mention
 3 your name?
 4 MR. TAKITANI: Okay. Ernie Takitani, Building
 5 Supervisor Inspector.
 6 Michael as a contractor would build something.
 7 Michael as inspector inspects it to be sure it's built
 8 correctly. Okay. And it's two separate things. Don't
 9 put it together, don't mix it together. That's it.
 10 CHAIR WESTFALL: Any other questions, comments
 11 from anyone?
 12 MS. JOESTING: I have one question.
 13 CHAIR WESTFALL: One more here.
 14 MS. JOESTING: If there's a geographic
 15 restriction on where you do your work outside for your
 16 business and where you do your inspections, would that
 17 be acceptable to you?
 18 MR. ICHIMARU: Oh, yeah. Yeah. I don't think
 19 that's a problem. I am actually going -- I was talking
 20 to Ernie, I says, "I am going to gear down." And what
 21 happened, it just was a weird year. Of all years, you
 22 wouldn't think, but I had a couple, two, three people
 23 call me that I had -- were clients of mine for probably
 24 over 10 years, 15 years, some of them, that, in the down
 25 times, they had money, so they, of course, invested and

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1 wanted me to do a remodel. But I am -- I am kind of
 2 getting older, to be honest with you. I am ready -- I
 3 am getting ready to kind of retire pretty soon.
 4 CHAIR WESTFALL: All right. Well, again,
 5 thank you for your patience with us and the --
 6 MEMBER PREY: Thank you, Michael.
 7 CHAIR WESTFALL: -- time you've given us
 8 today.
 9 MR. ICHIMARU: Appreciate your time.
 10 MS. JOESTING: I want to ask the same question
 11 to both. If there's a geographic restriction on where
 12 he can do his work on his outside compensated work and
 13 where he does his inspection, is that going to work in
 14 terms of the performance of duties?
 15 MR. TAKITANI: The last part of the question
 16 is?
 17 MS. JOESTING: Is it going to work for your
 18 division and for the department to have him do his
 19 renovation work in one area and inspect in another area?
 20 MR. TAKITANI: Yeah, it will be okay.
 21 Wouldn't have any conflict.
 22 CHAIR WESTFALL: Glen?
 23 MR. UENO: Honestly, I would need to know the
 24 specifics.
 25 MS. JOESTING: Yes. That would probably be

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1 fine.
 2 CHAIR WESTFALL: Anything else?
 3 MS. JOESTING: I can fill you in with what I
 4 do know. Is that acceptable to you folks?
 5 CHAIR WESTFALL: Fine.
 6 MS. JOESTING: Take a couple minutes. Mike
 7 does his inspection, I understand, in the
 8 Wailuku-Kahului area, but his renovation work has been
 9 95 percent in the Kihei area. So if you restricted his
 10 renovation work only to Kihei and continued his present
 11 Wailuku-Kahului for the County job, is that kind of a
 12 division that's workable?
 13 MR. UENO: Again, I thought the inspectors
 14 kind of rotated, so I don't know how that would be
 15 addressed, if he just would be prohibited from rotating
 16 to that specific geographic area.
 17 MS. JOESTING: So if he needed to cover for
 18 someone who inspects Kihei --
 19 MR. UENO: Then he would be prohibited if
 20 there's a restriction, right? I mean, I don't know how
 21 that would affect operations.
 22 MS. JOESTING: Sort of tie your hands more,
 23 yeah?
 24 MR. TAKITANI: You know, again, like we say,
 25 when there are people that call in sick or whatever, it

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1 boils down to the same thing, that's what we do,
 2 somebody else goes and does the inspection, okay. Not
 3 necessarily from that area, but because we all do the
 4 same thing, inspections, and we all supposed to know
 5 what we doing, and what we looking at, should be the
 6 same all the way.
 7 MS. JOESTING: Thanks.
 8 MEMBER KIKUCHI: See, that --
 9 CHAIR WESTFALL: Any other questions?
 10 MEMBER KIKUCHI: It's kind of a comment.
 11 That's the reason why I brought up the bosses should
 12 know what is going on within their own department
 13 because if we render an advisory opinion to you, yet the
 14 bosses don't know that we're doing that, then, you know,
 15 it can't be coordinated. So I think they would
 16 appreciate it if they knew what was going on and they
 17 had some say, actually, so that if something like this
 18 comes up again, then they can answer the question for
 19 us, actually, with confidence.
 20 CHAIR WESTFALL: Okay. All right. We'll
 21 excuse you guys. Thanks again for coming.
 22 MR. ICHIMARU: Okay. Great.
 23 MS. JOESTING: Thank you very much.
 24 MR. ICHIMARU: Those two letters, can I take
 25 those? I can make copies.

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1 MS. JOESTING: Sure. We will need copies.
 2 CHAIR WESTFALL: The letters.
 3 MS. JOESTING: Can we return them to you?
 4 MR. ICHIMARU: You can return them to me.
 5 Sure. Okay. Thank you.
 6 CHAIR WESTFALL: I will ask for a motion to go
 7 back into Executive Session to consult under Hawaii
 8 Revised Statutes 92-5, the exemption is to consult with
 9 the Board's attorney on questions and issues pertaining
 10 to the Board's powers, duties, privileges, immunities
 11 and liabilities.
 12 MEMBER KIKUCHI: I make the motion.
 13 CHAIR WESTFALL: Do I have a second?
 14 MEMBER PREY: Second.
 15 CHAIR WESTFALL: Any discussion? Seeing none,
 16 all those in favor, signify by saying "aye."
 17 (Response.)
 18 CHAIR WESTFALL: Passed unanimously, we'll go
 19 back into Executive Session to discuss the request for
 20 advisory opinion.
 21 (Recess to Executive Session, 1:32 p.m. to
 22 1:53 p.m.)
 23 CHAIR WESTFALL: Seeing none, we're now back
 24 to Regular Session.
 25 Item 6, New Business. Financial Disclosures,

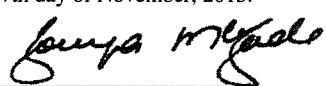
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1 none.
 2 Communication Items, none.
 3 We have two Lobbyist Registrations. Do I have
 4 a motion to acknowledge receipt of those?
 5 MEMBER PREY: I motion that we acknowledge the
 6 two --
 7 CHAIR WESTFALL: Could you just read the two
 8 last names for our record? Can you read the two last
 9 names in the motion?
 10 MEMBER PREY: John Monis and Kimberly
 11 Ribellia.
 12 CHAIR WESTFALL: Okay. Any discussion?
 13 Seeing none, all those in favor of acknowledging receipt
 14 of those two aforementioned Lobbyist Registrations,
 15 signify by saying "aye."
 16 (Response.)
 17 CHAIR WESTFALL: Any opposition?
 18 (No response.)
 19 CHAIR WESTFALL: Seeing none, those are
 20 acknowledged.
 21 We did Item (d) already.
 22 Announcements, none.
 23 Number 8, schedule next meeting and discuss
 24 next meeting's business. Wednesday, November 13th will
 25 be the next meeting, 2013. I guess discussing -- well,

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1 I can ask you about that later. Does this mean we
 2 discussed the agenda? We haven't had that phrase in
 3 here. I will ask you about the agenda later.
 4 MS. JOESTING: If you want to get input from
 5 the other Members about what they want to have on the
 6 agenda, we can do that now.
 7 CHAIR WESTFALL: Anyone have any items for the
 8 next agenda? Okay. Seeing none, a motion to adjourn
 9 the meeting.
 10 MEMBER PREY: Motion we adjourn.
 11 CHAIR WESTFALL: All those in favor, signify
 12 by saying "aye."
 13 (Response.)
 14 CHAIR WESTFALL: Meeting is adjourned.
 15 (Meeting concluded, 1:55 p.m.)
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1 CERTIFICATE
 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 7th day of November, 2013.
 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

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