

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

MAUI COUNTY BOARD OF ETHICS  
STATE OF HAWAII

TRANSCRIPT OF PROCEEDINGS  
REGULAR MEETING

Held at the Planning Conference Room, Kalana Pakui Building, 250 High Street, Wailuku, Maui, Hawaii, commencing at 12:31 p.m., on February 12, 2020.

REPORTED BY: SANDRA J. GRAN, RPR/CSR #424

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

APPEARANCES

BOARD MEMBERS PRESENT:

CHAIRPERSON: MATTHEW MACARIO  
DONNA CLAYTON  
WILLIAM CURTIS, JR.  
DAVID WEISS  
GERALDINE LEWIS  
SEWARD E. AKAHI

STAFF PRESENT:

DEPUTY CORPORATION COUNSEL: JENNIFER OANA  
COMMISSION SECRETARY: CORY-LYNN VICENS

1 (February 12, 2020, 12:31 p.m.)

2 \* \* \*

3 CHAIR MACARIO: (Gavel.) Okay. Calling the  
4 February 12, 2020, meeting of the Maui County Board of Ethics  
5 to order. We have no court reporter present today, so I'm  
6 going to go around the room and ask people to identify  
7 themselves by name and also remind everyone to please try and  
8 remember to say your name before you speak, if possible.

9 We'll start with you, Dave. Go ahead.

10 MEMBER WEISS: Dave Weiss.

11 MEMBER LEWIS: Gerri Lewis.

12 CHAIR MACARIO: Matt Macario.

13 MS. OANA: Jennifer Oana, corporation counsel.

14 MEMBER CLAYTON: Donna Clayton.

15 MEMBER CURTIS: Bill Curtis.

16 MEMBER AKAHI: Seward Akahi.

17 CHAIR MACARIO: And, Seward, your item comes up here  
18 in a little bit, but, in advance, welcome. Happy to have you  
19 with us.

20 Okay. The first item on the agenda is Review and  
21 Approval of the December 11, 2019, Minutes. These were in the  
22 January packet and, of course, we didn't have a January  
23 meeting due to lack of quorum. Is there a motion to approve  
24 the December 11, 2019, regular session minutes?

25 MEMBER CURTIS: So moved. Bill.

1 CHAIR MACARIO: Is there a second?

2 MEMBER WEISS: Dave. Second.

3 CHAIR MACARIO: Okay. Any discussion?

4 (No response.)

5 CHAIR MACARIO: All right. Hearing none, I'll call  
6 for the question. All in favor of approving the December 11,  
7 2019, minutes say aye.

8 (Response.)

9 CHAIR MACARIO: All opposed?

10 (No response.)

11 CHAIR MACARIO: Okay. That carries unanimously.

12 Next item, Public Testimony on Agenda Items.

13 Do we have any public testimony, Cory?

14 MS. VICENS: Chair, we do not.

15 CHAIR MACARIO: Thank you.

16 Okay. Next item, Announcements: a. Appointment  
17 and Welcoming of New Board of Ethics Member Seward Akahi for a  
18 Term Expiring March 31, 2022, five years from now. I hope you  
19 know what you're getting into.

20 MEMBER CLAYTON: We get a two-year term.

21 CHAIR MACARIO: Yeah. So welcome, Seward. Can  
22 you -- would you mind just kind of introducing yourself and  
23 telling us a little about you. I know you're the general  
24 manager for Hertz here, but don't know any more than that.

25 MEMBER AKAHI: Good morning. Seward Akahi. I'm a

1 native born and raised here on the island of Maui here in  
2 Wailuku. I'm very honored to be part of the board. Yes, I do  
3 work for Hertz Rent A Car. I've been in the rental car  
4 business for 25 years now. And, again, just very interested  
5 and very excited to be part of this board. I know there's  
6 some outgoing and so new people and so I'm excited to be here.

7 CHAIR MACARIO: Oh, great. Well, again, we're glad  
8 to have you. If at any point you have any questions about the  
9 process or feel uncomfortable with the way things are going,  
10 just -- we're kind of informal here, so just speak up and let  
11 us know, we'll be happy to --

12 MEMBER AKAHI: Thank you, Chair.

13 CHAIR MACARIO: Okay. Next item on the agenda,  
14 Resignation and Resolution For Former Vice Chair David Courson  
15 Effective January 1, 2020. I have a copy of the original  
16 resolution here. This is something we do for most, if not all  
17 of our outgoing members, basically thanking them for their  
18 service. For those who may not remember or, Seward, since you  
19 weren't here, David Courson was the vice chair of the board  
20 for a couple of years and, unfortunately, decided that he was  
21 going to have to move to the mainland and resign his position  
22 here. So what I will do is just pass around this resolution  
23 and ask all present to sign it and then --

24 What happens next, Cory, do you send it to him?

25 MS. VICENS: I will send it up to -- I will send the

1 resolution up to the mayor's office.

2 CHAIR MACARIO: Okay. Great. Just for the record,  
3 I'll go ahead and sign it and then I'll pass it on to Gerri  
4 and then, hopefully, after Dave signs it, he can bring it over  
5 to Seward. Thank you.

6 MEMBER WEISS: Mm-hmm.

7 CHAIR MACARIO: Okay. Next item on the agenda,  
8 Board of Ethics meeting scheduled to meet in the department of  
9 planning conference room on June 20 -- or June 10th, 2020,  
10 will now be held instead in the mayor's conference room, 9th  
11 floor of the county building due to a room conflict. So  
12 instead of here in June, I won't be here, but you'll be  
13 meeting in the -- what is that, the 9th floor of the county  
14 building.

15 MEMBER CLAYTON: Right.

16 CHAIR MACARIO: Just a notification there. And I'm  
17 sure Cory will remind you all.

18 MS. VICENS: And, Chair, a new schedule reflecting  
19 that room change was provided to all of the members.

20 CHAIR MACARIO: Oh, great. Yes, I do remember that.  
21 Thank you.

22 Okay. The next item on the agenda, Item 5, Election  
23 of Vice Chair to fulfill remainder of the board year due to  
24 former Vice Chair David Courson's resignation. This is a  
25 little unusual because, as some or all of you may know, Sara

1 and I are going to be attending the next meeting and then  
2 we're done with our service on the board, so it's really just  
3 one meeting that I need a vice chair to help me out in the --  
4 basically -- and Cory did give me a list of duties for the  
5 vice chair, which I'm happy to pass around if anybody wants  
6 them, but, essentially, boiled down to it, it's just to take  
7 over for me if I can't be here. And I expect I'm going to be  
8 here next month, so it's probably going to be unnecessary, but  
9 just to make sure, we wanted to add this to the agenda. So at  
10 this time I will solicit a nomination for anyone to be vice  
11 chair for one month.

12 (Laughter.)

13 CHAIR MACARIO: Are there any nominations?

14 (No response.)

15 CHAIR MACARIO: If not, I will make one.

16 MEMBER CLAYTON: I nominate Dave.

17 CHAIR MACARIO: Dave Weiss, will you be vice chair  
18 for next month?

19 MEMBER WEISS: For a one-month term?

20 CHAIR MACARIO: Yeah, a one-month term.

21 MEMBER WEISS: I'll agree to a one-month term.

22 (Laughter.)

23 CHAIR MACARIO: Okay. Are there any other  
24 nominations?

25 MEMBER WEISS: As long as you're going to be here

1 next week -- next time.

2 (Laughter.)

3 MEMBER WEISS: You've gotta be. It's your swan  
4 song, you have to be here.

5 CHAIR MACARIO: I'm almost certainly going to be  
6 here, so...

7 MEMBER LEWIS: Yes.

8 CHAIR MACARIO: Any discussion on the open  
9 nomination?

10 (No response.)

11 CHAIR MACARIO: Hearing none, all in favor?

12 (Response.)

13 CHAIR MACARIO: All opposed?

14 (No response.)

15 CHAIR MACARIO: All right.

16 MEMBER WEISS: I was going to nominate you, but I  
17 didn't know if you would go for it.

18 (Laughter.)

19 CHAIR MACARIO: Okay. Next item, Old Business,  
20 Financial Disclosure Statements: None.

21 Communication Items: None.

22 6.c, Review and Approval of Advisory Opinion 19A-13  
23 from Angela Lucero. Does everyone have that? I think it was  
24 passed out on the tables. Or was it in our January packet?

25 MEMBER WEISS: It was in the packet.



1 MEMBER CURTIS: It was in the January.

2 MS. VICENS: They were in your packet, Chair.

3 CHAIR MACARIO: Okay.

4 MS. VICENS: And I resent it again for February.

5 CHAIR MACARIO: Okay. Anyway, I have reviewed and  
6 approved this advisory opinion and I recommend that we go  
7 ahead and issue -- sign and issue it. Is there a motion to  
8 approve Advisory Opinion 19A-13?

9 MEMBER CLAYTON: So move. This is Donna.

10 CHAIR MACARIO: Thank you, Donna.

11 Is there a second?

12 MEMBER LEWIS: Second. Gerri Lewis.

13 CHAIR MACARIO: Thank you, Gerri.

14 Okay. Any discussion on that opinion?

15 (No response.)

16 CHAIR MACARIO: Hearing none, all in favor?

17 (Response.)

18 CHAIR MACARIO: All opposed?

19 (No response.)

20 CHAIR MACARIO: Okay. That carries unanimously.

21 I'm going to go ahead and sign that and same procedure, I'll  
22 pass it to Gerri and it'll go around. Thank you.

23 Okay. Next item on the agenda, Review and Approval  
24 of Advisory Opinion No. 19A-15 regarding Mike Silva, and this  
25 is the street-naming application. Is there a motion to issue

1 and approve Advisory Opinion 19A-15.

2 MEMBER CURTIS: So moved. Bill.

3 CHAIR MACARIO: Okay. Is there a second?

4 MEMBER WEISS: Dave. Second.

5 CHAIR MACARIO: Thank you.

6 Any discussion on 19A-15?

7 (No response.)

8 CHAIR MACARIO: Hearing none, all in favor?

9 (Response.)

10 CHAIR MACARIO: All opposed?

11 (No response.)

12 CHAIR MACARIO: Okay. That carries unanimously.

13 I've signed it and will hand it to Gerri. Thank you.

14 Next one, Item 6.e, Review and Approval of Advisory  
15 Opinion 19A-16 regarding Dylan Payne and this is the CPAC  
16 opinion. Is there a motion to issue and approve Advisory  
17 Opinion 19A-16?

18 MEMBER WEISS: Chair, this is Dave. I make a motion  
19 to approve the advisory opinion on Dylan Payne.

20 CHAIR MACARIO: All right. Is there a second?

21 MEMBER CLAYTON: Second. Donna.

22 CHAIR MACARIO: Thank you, Donna.

23 Any discussion on this?

24 (No response.)

25 CHAIR MACARIO: Hearing none, all in favor?

1 (Response.)

2 CHAIR MACARIO: All opposed?

3 (No response.)

4 CHAIR MACARIO: Okay. That carries unanimously.

5 Thank you. I'm handing it to Gerri. Thanks.

6 MEMBER LEWIS: You're welcome.

7 CHAIR MACARIO: All right.

8 MEMBER WEISS: I should sign them all at once.

9 CHAIR MACARIO: Next item on the agenda, 6.f, Status  
10 Update From Corporation Counsel Regarding Making County of  
11 Maui Advisory Opinions Public and Available on the County of  
12 Maui Board of Ethics Webpage. And I'll note for the record  
13 that Cory included -- either in the packet or the email, I  
14 can't remember -- some documentation that she's come up with  
15 that can serve as -- oh, I'm sorry, I'm talking about  
16 something else. I'll just wait for Cory and/or Jen to update  
17 us on the status of making these items public.

18 MS. OANA: Okay. I'll update you folks on the  
19 status. This is Jennifer Oana. Cory's worked very, very hard  
20 on this planning part of the digitizing the Board of Ethics  
21 opinions online. She's done a -- a bunch of research and I  
22 think she presented that to you a few meetings ago, but so  
23 far -- right now the update is the department of corporation  
24 counsel has put in our budget for Fiscal Year 2021 this  
25 matter. So we are asking the mayor and the council to approve

1 a budget for us to help us out with this. We -- this handout  
2 that Cory provided you shows there's a number of advisory  
3 opinions dating back to way, way, way long time ago. So we're  
4 going to have to basically review them and find out what the  
5 issues are so we can kind of categorize them to put them up on  
6 the web and that's going to take a lot of time. And so I  
7 think what we're doing is we're going to see if we can hire a  
8 vendor to do that and if we do do that, we're going to have to  
9 go through the procurement process. But it's going to be a  
10 lot of work, so we're hoping to get a vendor to help us out  
11 with that.

12 I don't think I have anything else to add unless,  
13 Cory, do you have anything to add?

14 MS. VICENS: I spoke with the IT office and will be  
15 scheduling a meeting with Susan Underwood. There appears to  
16 be maybe some already infrastructure in place that we could  
17 utilize; however, the heavy lifting will still come from our  
18 department and a third party with the scanning. Deputy Oana  
19 and I have spoken especially when it comes to keywords as it  
20 relates to the individual advisory opinions and you really  
21 can't just hand that off to anybody and say come up with them.  
22 So through -- with Susan, we'll report back how that goes.

23 CHAIR MACARIO: All right. Thank you. And thank  
24 you, Jen, and especially you, Cory, for all the hard work  
25 you've both put into this. I know this was just a goal of

1       ours to make sure that as much of this can be put online as  
2       possible as quickly as possible and we never expected it to be  
3       an instantaneous thing. So the way I'm reading this is we're  
4       going to kind of start with the most recent ones first and  
5       move backwards as time allows. So just very appreciative for  
6       all of your hard work, both of you.

7                Any other comments or discussion on this agenda item  
8       before we move on?

9                (No response.)

10               CHAIR MACARIO: All right. Hearing none, let's go  
11       on to Item 7, New Business: Financial Disclosure Statements,  
12       Elected and Appointed. It's on the next page, page 3. So we  
13       have statements from -- I'm just going to use the last names:  
14       Alibin, Fujita, Kau, Kushi, Lutey, Molina, Paltin, Pearson,  
15       Taguchi, Teruya, and Tsuhako. Is there a motion to  
16       acknowledge receipt of these financial disclosures?

17               MEMBER CLAYTON: This is Donna. I move we  
18       acknowledge receipt of the financial disclosures.

19               CHAIR MACARIO: Thank you.

20               Is there a second?

21               MEMBER LEWIS: Second. Gerri Lewis.

22               CHAIR MACARIO: Thank you, Gerri.

23               All right. Any discussion? I'm just going to start  
24       off the discussion by saying I don't know if it's the new form  
25       or what, but I was very impressed with the completeness and

1 thoroughness of, really, all of the ones in this month's  
2 packet. So Sara's not here, but I feel like I owe her a thank  
3 you for being so fastidious in getting our financial  
4 disclosure forms updated and, of course, Cory as well for all  
5 her work in formatting and everything else.

6 MEMBER CURTIS: Can I one comment?

7 CHAIR MACARIO: Go ahead, Bill.

8 MEMBER CURTIS: This is Bill. Before -- since these  
9 are publicly filed, we may want to go to Mr. Pearson and see  
10 if he'd like to amend his debt and change it from the dollar  
11 amounts to the letter codes for his privacy.

12 CHAIR MACARIO: Okay. Let's -- let me find his. I  
13 think I saw what you're talking about.

14 MEMBER WEISS: Yeah. He had them all wrote in.

15 CHAIR MACARIO: Yeah, he put actual numbers. I  
16 think we can, in our review, just sort of vote to --

17 MEMBER CURTIS: Or could we change --

18 CHAIR MACARIO: We can redact it, I would think.

19 MEMBER CURTIS: And change -- and modify it to the  
20 letter codes?

21 CHAIR MACARIO: I don't know the answer to that,  
22 but --

23 MEMBER CURTIS: That was my only comment.

24 CHAIR MACARIO: Yeah, I -- I agree with you, I think  
25 that is -- since these ones are a matter of public record and

1 reviewable by the public.

2 Cory, would it be possible for you to contact  
3 Mr. Pearson and ask him if he'd like us to either redact or  
4 change his entries to letter codes?

5 MS. VICENS: Yes, I will.

6 CHAIR MACARIO: Okay, all right. Any other  
7 discussion?

8 MEMBER WEISS: Chair, I have one -- maybe a  
9 clarification on I think the first one, Alibin.

10 CHAIR MACARIO: Okay.

11 MEMBER WEISS: So in Item 2 they list income, I  
12 think they're getting that mixed up. They have a business in  
13 Item 3 that's worth D, but they have, apparently, income from  
14 gross sales -- I think those are the gross sales instead of  
15 the income derived from gross sales. So I don't know if  
16 that's too manini, but I don't -- I don't believe their -- you  
17 know, have a half a million dollars in sales with a company  
18 that's worth only a hundred thousand dollars, so I think maybe  
19 that's their gross sales instead, that's not income.

20 CHAIR MACARIO: I would agree, yeah. Gross sales  
21 probably before expenses and all of that. Is that what you  
22 mean?

23 MEMBER WEISS: Yes. Yes, it's gross sales, but it  
24 says where do you get your income from and -- I see what  
25 they're doing.

1 CHAIR MACARIO: Yeah.

2 MEMBER WEISS: They say, Well, we derive our income  
3 from gross sales, but basically we just want to know -- the  
4 question is how much are you making.

5 CHAIR MACARIO: Right.

6 MEMBER WEISS: I think they're --

7 CHAIR MACARIO: So they may have over-reported --

8 MEMBER WEISS: I think they --

9 CHAIR MACARIO: -- their income.

10 MEMBER WEISS: Yeah, grossly over-reported.

11 CHAIR MACARIO: Yeah.

12 MEMBER WEISS: If not, I'll buy the business.

13 MEMBER LEWIS: Amen.

14 MEMBER WEISS: Tomorrow.

15 CHAIR MACARIO: Yeah. All right. Good observation.  
16 Thanks, Dave. I don't think we need to change that, but it's  
17 good to note that.

18 Any other discussion?

19 MS. VICENS: Chair, could you please tell me which  
20 item number that was in?

21 CHAIR MACARIO: Oh. Item 2 on Mr. -- or, sorry,  
22 Ms. Alibin's, the first one, May-Ann Alibin. Item 2, I  
23 think --

24 MEMBER CURTIS: Wailuku Seafood Center.

25 CHAIR MACARIO: Yeah, the F should probably be D or



1 something similar. I think she's reporting gross sales  
2 instead of actual income. But, again, I'm not sure that  
3 affects our decision one way or the other.

4 And, Seward, just for your benefit, our job here is  
5 not to really question too much of what's in here, we -- our  
6 job is to acknowledge receipt of these and make sure they  
7 comply with the form and then if there are specific ethical  
8 issues that come to our attention, then we can do things like  
9 issue a cautionary letter or send it back. But generally  
10 we're just kind of focused on the face of the document and  
11 making sure that they complied with the rules.

12 COMMISSION AKAHI: Thank you, Chair.

13 CHAIR MACARIO: Any other discussion?

14 MEMBER WEISS: Yeah, Chair, I -- I came across this  
15 one and this one is on Jordan Molina, he's the deputy director  
16 of public works.

17 CHAIR MACARIO: Okay.

18 MEMBER WEISS: And I was -- I was a little confused  
19 because he started in 2019, but in the last 12 months he  
20 represented T.J. Gomes on behalf -- or represented himself in  
21 front of the county on behalf of T.J. Gomes in the last 12  
22 months, so in the -- the public works, water supply,  
23 environmental management, but that -- isn't that -- isn't that  
24 who he -- what company he represented? So I don't know how  
25 you could represent your employer -- or, I mean, a private

1 company if you're on the -- if you're the director of public  
2 works.

3 MEMBER CURTIS: He was previously employed by T.J.  
4 Gomes. He just became --

5 MEMBER WEISS: Oh, I see. So October of twenty --

6 MEMBER CURTIS: Yes.

7 MEMBER WEISS: Okay. And that's what -- so I see.  
8 So, yeah, yeah. So he went from being employed there --  
9 'cause I looked at that and I went, October? But that makes a  
10 lot of sense. Okay. Never mind.

11 CHAIR MACARIO: We're lucky enough to have a member  
12 of the T.J. Gomes family here to kind of clarify that, so --

13 MEMBER WEISS: Yes. Thank you. And help me.

14 CHAIR MACARIO: With that said, I still think it's a  
15 good observation. If there's any potential conflict with his  
16 former position at T.J. Gomes as the deputy director of public  
17 works such that we should consider sending him a cautionary  
18 letter? You know, like, for example, if -- if a project or  
19 matter comes up before you that involves T.J. Gomes, should he  
20 consider, you know, disclosing and/or recusing himself from  
21 that matter. Bill, do you have any thoughts on that?

22 MEMBER CURTIS: I would recommend that.

23 MEMBER WEISS: I would as well.

24 CHAIR MACARIO: Okay. So --

25 MEMBER CURTIS: And to further clarify, all of these

1 projects that he was involved with, it was through the public  
2 bidding process and they were low bidder. So it's not like  
3 these were negotiated projects, so there is a vetting process  
4 that the county does.

5 CHAIR MACARIO: Thank you.

6 Okay. Any other discussion?

7 MEMBER LEWIS: I have a question, Matt.

8 CHAIR MACARIO: Go ahead, Gerri.

9 MEMBER LEWIS: This is Gerri. So when we -- when  
10 they fill out this form, it is for the previous calendar year.

11 CHAIR MACARIO: Right.

12 MEMBER LEWIS: So from what Bill's saying, he used  
13 to work at T.J. Gomes; is that correct:

14 MEMBER CURTIS: That's correct.

15 MEMBER LEWIS: So shouldn't he be -- shouldn't he  
16 list that as his -- as a former occupation, because it's  
17 through that calendar year? Basically saying if -- if Bill  
18 was not here, we would not -- not have known that. So does it  
19 say anywhere where he was previously --

20 MEMBER CURTIS: But it -- so he took office in  
21 October.

22 MEMBER LEWIS: Right.

23 MEMBER CURTIS: So he's -- he's recognizing his most  
24 current position at --

25 MEMBER LEWIS: Correct.

1 MEMBER CURTIS: -- in 2017.

2 MEMBER LEWIS: Correct.

3 MEMBER CURTIS: I guess the question would be:

4 Should we have two --

5 MEMBER LEWIS: Is it --

6 MEMBER CURTIS: -- two employers listed?

7 MEMBER LEWIS: Correct. Because it says here,  
8 Source of income includes salary, wages, and retirement income  
9 from all sources, etc., for the previous calendar year.

10 MEMBER CURTIS: Yeah. He should probably list two,  
11 two employers, then.

12 CHAIR MACARIO: I think that's right. Good  
13 observation, Gerri.

14 So, Cory, on Item 1, Source of Income, for Jordan  
15 Molina, he's only identified his income as the deputy director  
16 of public works and not what we understand to have been his  
17 earlier employment that same calendar year at T.J. Gomes, so I  
18 do think in this case we probably need to ask either his  
19 permission to have you add that information that he gives you  
20 or to have him complete it again, whatever he's willing to do.  
21 And then we can look at it again at our next meeting. Okay?

22 MEMBER CURTIS: And so -- but he -- that is his  
23 annual compensation, that probably doesn't represent what he  
24 worked -- earned during two months, the D letter code from the  
25 county.

1 MEMBER CLAYTON: Oh, good point.

2 MEMBER LEWIS: Correct.

3 MEMBER CURTIS: So he may want to --

4 MEMBER CLAYTON: We hope.

5 MEMBER LEWIS: Yeah. I hope not.

6 MEMBER CLAYTON: I know.

7 (Laughter.)

8 MS. VICENS: So we would see something like --

9 MEMBER CURTIS: Yeah. It says from all sources.

10 MS. VICENS: Position 1, Position -- Employment 1,  
11 Employment 2, and only one letter. The direction is to  
12 provide one letter in annual income.

13 MEMBER CURTIS: Well, I know, but --

14 MEMBER WEISS: Because there's additional income --

15 MEMBER CURTIS: A letter for each job.

16 CHAIR MACARIO: Yeah, I would say a letter for T.J.  
17 Gomes and a letter for deputy director.

18 MS. VICENS: Okay.

19 MEMBER CURTIS: For the county for 2019.

20 CHAIR MACARIO: For the -- yeah, for the two months  
21 or whatever it was that he worked there, so --

22 MEMBER WEISS: That wouldn't go under Item 2 of  
23 additional income?

24 MEMBER CURTIS: Well, it says in our Item 1 header,  
25 Include salary from all sources.

1 CHAIR MACARIO: Yeah. I think Item 1 is employment  
2 income; right?

3 MEMBER CURTIS: Yeah, employment income.

4 CHAIR MACARIO: And then two is just like  
5 miscellaneous --

6 MEMBER WEISS: Gotcha.

7 CHAIR MACARIO: -- other income?

8 MEMBER LEWIS: Right.

9 MEMBER CURTIS: And I did that the first year I was  
10 here, I had two jobs, so I had two lines on my --

11 CHAIR MACARIO: Yeah. I've done that as well, so --

12 MEMBER CURTIS: I'm sorry. That was Bill.

13 CHAIR MACARIO: Thanks.

14 Okay. Any other discussion on these?

15 MS. OANA: Chair.

16 CHAIR MACARIO: Yes.

17 MS. OANA: So we're going to be sending a cautionary  
18 letter to Mr. Molina?

19 CHAIR MACARIO: Yes.

20 MS. OANA: And I'm -- just so I know what it's  
21 about, because -- I'm not sure, I'm the one that does it?

22 CHAIR MACARIO: (No response.)

23 MS. OANA: Okay. So is this to caution him with  
24 regard to Prohibition 4, 10-4.4 where it says, Officers and  
25 full-time employees of the county shall not appear on behalf

1 of or represent private interests before any county agency, so  
2 caution him not to --

3 CHAIR MACARIO: You know, I don't have those rules  
4 right in front of me, I can probably grab them.

5 MS. OANA: Well, I'm sorry, what are we cautioning  
6 him on?

7 CHAIR MACARIO: Well, my thought was just, you know,  
8 as a member or an employee of T.J. Gomes, he may have acquired  
9 information through that employment that may affect what he  
10 does as deputy director. Also, he may know people still in  
11 the company and there could be a perception that he would act  
12 more favorably toward T.J. Gomes as a result. That's just me  
13 talking, I don't know if that's what -- how the board feels,  
14 but I would just want to caution him that if any matter comes  
15 up before him that involves T.J. Gomes, that he consider  
16 whether he should either solicit an opinion from us or  
17 disclose and/or recuse himself from -- and we've had other  
18 people do that, like they've got other members in the  
19 department who take over in those situations, so -- I don't  
20 think we're telling him he has to, but he should consider it.

21 MS. OANA: Okay.

22 MEMBER CURTIS: Usually for us, it's the other way,  
23 it's a private -- or a public employee exiting to private  
24 practice.

25 CHAIR MACARIO: Right.

1 MEMBER CURTIS: This is --

2 MS. OANA: The opposite.

3 MEMBER CURTIS: -- the opposite.

4 CHAIR MACARIO: Okay. Any other discussion?

5 MEMBER LEWIS: Sorry. This is Gerri.

6 CHAIR MACARIO: Go ahead, Gerri. No, no apologies.

7 MEMBER LEWIS: One more. Under Item 2, Sole

8 proprietorship, cottage rental.

9 CHAIR MACARIO: I'm sorry. Who is this for?

10 MEMBER LEWIS: I'm sorry. The same, Mr. Molina.

11 CHAIR MACARIO: Okay.

12 MEMBER LEWIS: Jordan Molina.

13 CHAIR MACARIO: Mm-hmm.

14 MEMBER LEWIS: Item 2, Sole proprietorship, cottage

15 rental. So with that I go to Item 6 and there is nothing

16 listed for his property, which I'm assuming --

17 MEMBER WEISS: It could be his principal residence,

18 though.

19 MEMBER CURTIS: Yeah.

20 MEMBER WEISS: It could be his principal residence.

21 MEMBER CURTIS: Yeah, an ohana on his principal

22 residence.

23 MEMBER CLAYTON: Yeah, that's what I think.

24 CHAIR MACARIO: Yeah, that would be how I would

25 assume it, too, but I see what you're saying, Gerri. 'Cause,



1 you know, on Item 6, Exclude personal residence is bold and  
2 underlined, if I saw that and the cottage was on my property,  
3 I might still identify it. Although it would still have the  
4 same TMK number as your personal residence; right?

5 MEMBER LEWIS: Right.

6 MEMBER WEISS: Plus it's kind of vague, but --

7 CHAIR MACARIO: I mean, in my -- in my mind, he's  
8 disclosed its existence and I'm not sure that if it's a  
9 cottage, we necessarily would have a separate TMK number  
10 anyway. But I'm happy to have Cory ask him, since she's going  
11 to be asking him anyway if -- just can you ask him, Cory, to  
12 confirm that it is, in fact, a cottage on his primary personal  
13 residence? And if so, I think we can leave Item 6 alone.

14 Another good observation. Thanks, Gerri.

15 MEMBER LEWIS: Sorry. Thank you.

16 CHAIR MACARIO: Okay. Any other discussion?

17 (No response.)

18 CHAIR MACARIO: All right. So just to recap, I  
19 think we're going to issue a cautionary letter to Mr. Molina,  
20 send it back to him with either -- he can either ask -- or  
21 give Cory permission to update the items we discussed or he'll  
22 resubmit. And with Mr. Pearson, same thing, he'll either  
23 agree to provide the information we requested through Cory or  
24 he'll resubmit.

25 MEMBER WEISS: You know, Chair, I find it

1 interesting that no one in planning or public works suggested  
2 that he come in for an advisory opinion when they first hired  
3 him out of private practice.

4 CHAIR MACARIO: Because of the T.J. Gomes  
5 connection? Yeah.

6 MEMBER WEISS: I think that would be standard, to  
7 just go in and disclose it and get an advisory opinion.

8 CHAIR MACARIO: Yeah. It's probably a good thing  
9 that we're sending him a cautionary letter, so thank you  
10 again, Board, for recognizing that potential conflict.

11 Any other discussion?

12 (No response.)

13 CHAIR MACARIO: Okay. So hearing none, all in favor  
14 of acknowledging receipt of the financial disclosures with the  
15 cautionary letter and questions as noted, say aye.

16 (Response.)

17 CHAIR MACARIO: All opposed?

18 (No response.)

19 CHAIR MACARIO: Okay. That carries unanimously.

20 Item 7.b, Communication Items: None.

21 7.c, Request For Advisory Opinion 19A-17. As you  
22 may have seen, the requester has withdrawn this request and  
23 provided us with a letter of explanation as to why, so we're  
24 going to go ahead and acknowledge receipt of that letter and  
25 acknowledge receipt of the request to withdraw.

1 Do we need to do that by motion?

2 MS. OANA: Let's do that by motion.

3 CHAIR MACARIO: Okay. Is there a motion to accept  
4 the withdrawal of Advisory Opinion 19A-17?

5 MEMBER CURTIS: This is Bill. So moved.

6 CHAIR MACARIO: Is there a second?

7 MEMBER CLAYTON: Second.

8 MEMBER WEISS: Dave, second.

9 CHAIR MACARIO: Okay. Both Dave and Donna seconded.  
10 Thank you.

11 Any discussion?

12 (No response.)

13 CHAIR MACARIO: Hearing none, all in favor say aye.

14 (Response.)

15 CHAIR MACARIO: All opposed?

16 (No response.)

17 CHAIR MACARIO: Okay. That carries unanimously.

18 Item 7.d, Request For Advisory Opinion 20A-01 from  
19 Councilmember Michael Molina. I understood from Cory before  
20 the meeting that Councilmember Molina was planning to be here.

21 Is that right?

22 MS. VICENS: That's correct.

23 CHAIR MACARIO: He's not currently here, so if it's  
24 all right with the rest of you, I think we'll just table this  
25 and see if he shows up and if not, we'll address it later.

1 Do I need a motion for that?

2 MS. OANA: No.

3 CHAIR MACARIO: Can I just -- okay. So we're just  
4 going to table Item 7.d for the moment.

5 Move on to 7.e, Formation of a TIG, Pursuant to  
6 HRS 92-2.5(b)(1), to Investigate and Create a Maui County  
7 Board of Ethics "Quick Guide on Gifts" for Maui County  
8 Employees to Reference. And I may need to get some advice  
9 from Jen on this, but in the past I believe we have had at  
10 least two or three board members become involved in these TIGs  
11 for various things. This one is sort of a pet project of mine  
12 and I would like to be on it, but since I'm only here for one  
13 more meeting, I'm not sure that that's realistic.

14 But, anyway, Jen, if you want to give us just a  
15 little advice on what we need to do.

16 MS. OANA: Okay. To establish a TIG today we will  
17 need to define the scope of the TIG, what the TIG is going to  
18 do, and define the members. And then the number of members  
19 can be up to quorum, so at most four people can be on this  
20 TIG. The TIG will basically allow you folks to meet without  
21 it being a public meeting, so we don't need to agendize it, no  
22 minutes need to be taken. But the process of the TIG really  
23 is this first meeting to define the scope, define who's going  
24 to be on it, and then the TIG can do out and do whatever you  
25 need to do. You can meet informally at each other's houses or

1       wherever you want to.

2                   At the time you have something to present back to  
3       this board for approval, we'll agendaize that meeting as, you  
4       know, information from the TIG or report by the TIG to the  
5       board. And then at that second meeting is just a presentation  
6       of your report, no -- no action will be taken, because what we  
7       want to do is allow the public to also learn that there's a  
8       report if they want to review it. So it's really just taking  
9       in the information, no real discussion on it. You can discuss  
10      what's in the report, but there's no deliberation. And it's  
11      at that third meeting where the board can take action on  
12      approving the report, the guidelines, whatever you guys come  
13      up with.

14                   So it is a process, it does take at least three  
15      meetings to actually get the guidelines approved, but, like I  
16      said, you guys can go out and do your own thing and you don't  
17      have to have a public meeting.

18                   CHAIR MACARIO: It doesn't take three meetings of  
19      the TIG, it just means -- it takes three months, basically, to  
20      get -- on a monthly basis to get whatever recommendations are  
21      issued enacted.

22                   MS. OANA: So it takes three meetings to get -- if  
23      the result is a guideline sheet, it'll take at least three  
24      meetings to get that enacted.

25                   CHAIR MACARIO: Right.

1 MS. OANA: Approved by the board.

2 CHAIR MACARIO: Okay.

3 MS. OANA: But it could take longer, you know.

4 CHAIR MACARIO: Right, right.

5 MS. OANA: And it doesn't have to be, you know, this  
6 meeting is February, March, April we need to do something.  
7 You know, from now until that second meeting, it could be  
8 three months, however long it takes you guys to come up with  
9 what you want to do.

10 CHAIR MACARIO: Okay. So today what we need to do  
11 is to figure out A) whether this is something the board is  
12 interested in pursuing, and B) if so, who should be on it.  
13 So, again, I remember when we were dealing with -- gifts comes  
14 up a lot and we get a lot of requests from people about  
15 whether specific things they're doing are okay or not and it  
16 would be nice to have a little handy guideline which would  
17 tell people, Here are some concrete examples of situations you  
18 should avoid or that are okay. And we've seen those with the  
19 state ethics commission, the County of Honolulu and some  
20 others.

21 Cory, did you give us, or was that just to me, some  
22 examples?

23 MEMBER CLAYTON: No. We got examples.

24 CHAIR MACARIO: Okay. Yeah, I remember that. Thank  
25 you.

1           So it would be something like that that we could  
2 issue to all county employees and officers, elected officials  
3 that would give them some guidance as to what is and is not  
4 acceptable. And it would also help future boards in answering  
5 specific requests.

6           So does anybody have any thoughts about whether this  
7 is worth pursuing?

8           MEMBER CLAYTON: This is Donna. I think it's worth  
9 pursuing. I don't think it's clear what we do now.

10          CHAIR MACARIO: Right. Okay. Anybody disagree with  
11 that? I mean, I -- it seems fairly obvious that more  
12 information is better for these people and having a little  
13 quick guide would be key.

14          So with that said, is there anybody who like to be  
15 on this TIG?

16          MEMBER CLAYTON: I'd be glad to.

17          CHAIR MACARIO: Okay. Bill --

18          MEMBER LEWIS: I will too.

19          CHAIR MACARIO: Okay. Great.

20          And how about you, Bill? And the only reason I ask  
21 is because I know you're the one that found that original  
22 state ethics commission --

23          MEMBER CURTIS: Certainly. Even though you're not  
24 going to be here, could we have your thoughts as far as, you  
25 know, having been here for five years?

1 CHAIR MACARIO: I mean, I'm certainly willing to  
2 provide them. I don't know technically whether that's --

3 MEMBER CURTIS: Would that be acceptable?

4 CHAIR MACARIO: -- authorized.

5 MEMBER WEISS: Well, at least you're able to attend  
6 the first -- if I was leaving office, I'd want you guys --

7 MEMBER CURTIS: You're cochair next -- next month.

8 MEMBER WEISS: I know.

9 MEMBER CURTIS: You've got your plate full.

10 MEMBER WEISS: I would take him --

11 (Laughter.)

12 -- for the initial meeting rather than none, so...

13 MEMBER CLAYTON: Yeah.

14 MS. OANA: So -- so this is Jennifer. And by the  
15 way, that was Dave speaking.

16 So it's okay if -- if, Matt, you want to come to  
17 these TIG meetings. The TIG is more than welcome to invite  
18 Matt. He is not a member of the TIG, but if you want to have  
19 him provide you any -- information or thoughts, you know,  
20 you're more than welcome to be a part of that. But not as a  
21 member, more of a --

22 MEMBER CURTIS: The previous TIG, we just did the  
23 email, we didn't even have a physical meeting.

24 MS. OANA: And that's fine too.

25 CHAIR MACARIO: Yeah. So, you know, I'm happy to



1 participate to the extent I'm authorized to do so, because  
2 this is something that I've -- I remember when we went to that  
3 ethics meeting on Oahu and I was just stunned that all of  
4 these other boards had this information handy that they were  
5 able to distribute and we don't have anything like it, so I'd  
6 like to do it.

7 All right. So at least as of now, it sounds like  
8 Donna --

9 MEMBER CURTIS: So a follow-up question, then. This  
10 is Bill. If there's a maximum of four, could Matt be part of  
11 the TIG until his term is up and then it becomes a three-  
12 person TIG?

13 MS. OANA: Sure.

14 MEMBER CURTIS: Great.

15 MEMBER WEISS: That was my -- yeah, the TIG -- it  
16 would be 30 percent with just three meetings.

17 MEMBER CURTIS: Okay. So it's -- it's the follow  
18 through that -- but at least the initial structuring, we can  
19 get your...

20 CHAIR MACARIO: Okay. So, Jen, how do I do this?  
21 Do I just solicit a motion to --

22 MS. OANA: Okay. So --

23 CHAIR MACARIO: -- form the TIG?

24 MS. OANA: Yes.

25 So, Bill, you're saying yes?

1           MEMBER CURTIS: I'll make a motion to form a TIG  
2 with four members -- myself, Matt, Donna, and Gerri -- for the  
3 purposes of creating a guide on gifts.

4           MS. OANA: Perfect.

5           CHAIR MACARIO: A Quick Guide on Gifts. Great. Is  
6 there a second?

7           MEMBER CLAYTON: Second. Donna.

8           CHAIR MACARIO: Okay. Any other discussion?

9           (No response.)

10          CHAIR MACARIO: All in favor, say aye.

11          (Response.)

12          CHAIR MACARIO: All opposed?

13          (No response.)

14          CHAIR MACARIO: Okay. That carries unanimously.

15          Thank you both. Thank you all.

16          All right. Next Item 7.f, Lobbyist Registration.

17          We have one from Matthew Middlebrook. Is there a motion to  
18 acknowledge receipt of Mr. Middlebrook's lobbyist registration  
19 that was in our packets?

20          MEMBER WEISS: This is Dave. So moved.

21          CHAIR MACARIO: Is there a second?

22          MEMBER CLAYTON: Second. Donna.

23          CHAIR MACARIO: Okay. Any discussion about this  
24 registration?

25          (No response.)

1 CHAIR MACARIO: It seems to comply with all of our  
2 requirements. All right. Hearing no other discussion, all in  
3 favor?

4 (Response.)

5 CHAIR MACARIO: All opposed?

6 (No response.)

7 CHAIR MACARIO: Okay. That carries unanimously.

8 All right. So what should we do now, Jen, since  
9 Mr. -- or Councilmember Molina is not here? Should we --

10 MS. OANA: Let's keep going on this and then -- and  
11 then if he comes while we're in executive session, we can ask  
12 him to step -- stay outside.

13 CHAIR MACARIO: Okay.

14 MS. OANA: And if you want to cut that off and do  
15 his, we can do that.

16 CHAIR MACARIO: All right. So before Cory locks the  
17 door, the next item is the next meeting date, discussion of  
18 next meeting business. The next meeting will be March 11,  
19 2020 --

20 MS. VICENS: Chair, Councilmember Molina is here.

21 CHAIR MACARIO: Oh, okay. Great.

22 Good afternoon, Councilman. How are you?

23 MR. MOLINA: Hi. How are you?

24 MS. VICENS: You can go up to the podium.

25 MR. MOLINA: To the podium. Okay.

1 CHAIR MACARIO: Welcome.

2 MR. MOLINA: Thank you.

3 CHAIR MACARIO: Okay. So for the record,  
4 Councilmember Mike Molina has appeared and we're going to go  
5 back to Item 7.d on our regular session agenda, Request For  
6 Advisory Opinion 20A-01 From Michael Molina, County Council  
7 Member, Regarding Direction on Any Potential Conflict of  
8 Interests With His Daughter's Place of Employment and Her  
9 Position As Research Analyst For -- is it Munekiyo Hiraga?

10 MR. MOLINA: Yes.

11 CHAIR MACARIO: -- a Consulting Firm Providing Urban  
12 Planning, Permitting, Advisory Services, and Project  
13 Management, Which in Some Instances, the Firm Will Need to  
14 Represent Their Clients on Projects Appearing Before the  
15 County Council.

16 Again, welcome, Councilmember Molina, and thank you  
17 for taking the time to be here today. We've got your letter,  
18 of course, and thank you again for appearing. Would you mind  
19 just giving us a short summary of the basis for your request  
20 and what it is exactly that you're asking us to opine on?

21 MR. MOLINA: Thank you very much, Chair and Members,  
22 and thank you for placing this on your agenda today. As  
23 Mr. Macario had stated, I submitted a letter dated  
24 January 10th to the commission for basically giving some  
25 direction as to how to approach this situation. My daughter

1 Kelsey Molina is currently employed by the land use consulting  
2 firm Munekiyo Hiraga, which is right across the street, and to  
3 provide various services for clients dealing with planning and  
4 permitting and project management and in some instances their  
5 clients will come before the county council for requests for a  
6 change in zoning proposals or special use permits. So the  
7 company actually asked me to consider going before you to get  
8 some direction, 'cause she does -- on some occasions, she is  
9 one of the lead project managers and, basically, she does --  
10 she does a lot of analysis for environmental assessments and  
11 she assists the clients with walking them through the  
12 permitting process with the county or state. And there are  
13 times when the project managers, project leaders as they call  
14 them, they come before the council to provide information.

15 I was told that they're not a lobbying firm, they  
16 will not go up to council members and say, Please support this  
17 project. They're just there to respond to council member's  
18 questions for information about the project, so to help us  
19 make more fully informed decisions so on their project  
20 proposals. So that's basically the gist of it. And to --  
21 basically -- and I can agree with the company's -- with the  
22 company's request for having me be here to, I guess, maybe get  
23 direction from you and erase any perception of conflict.

24 For the record, I do not have any financial interest  
25 in the company as well and my daughter is not a part owner of

1 the company, so she's just strictly an employee.

2 CHAIR MACARIO: All right.

3 MR. MOLINA: And that's basically it.

4 CHAIR MACARIO: Thank you, Member Molina.

5 MR. MOLINA: And also, Mr. Chairman, I have some  
6 information to distribute. I'm sorry, I didn't make enough  
7 copies, but if you'd like to look at what Munekiyo &  
8 Hiraga's about, I downloaded it from their website.

9 CHAIR MACARIO: That's great. If you give it to  
10 Cory, she'll pass it around. Thank you.

11 All right. Before -- what we usually do at this  
12 point is open it up for questions from the board members to  
13 you, but before we do that, I'm going to ask our corporation  
14 counsel, Jen, to kind of help the board in understanding what  
15 issues, if any, may be raised by the request, particularly  
16 with regard to the code of ethics.

17 MS. OANA: So as all -- as you all know, the  
18 prohibitions you are to analyze is in Section 10-4 of the  
19 charter, Prohibitions, and so, you know, running down the  
20 prohibitions before this meeting, you know, there -- there are  
21 certainly ones that do not apply at all in this situation and  
22 there are some that apply -- or not apply, but you may discuss  
23 and analyze for yourself to see if there's any conflict that  
24 exists.

25 So in my opinion, you know, with regard to

1 10-4(1)(b), it says, No officer or employee of the county  
2 shall disclose information by which, by law or practice, is  
3 not available to the public and which the officer or employee  
4 acquires in the course of the officer's or employee's official  
5 duties or use such information for the officer's or employee's  
6 personal gain or for the benefit of anyone.

7 Mr. Molina did not specifically ask about this one,  
8 but in my opinion, you know, it's merely just that we could  
9 caution him not to disclose to his daughter any executive  
10 session information that he learns with regard to any project  
11 she's working on for Munekiyo.

12 Some others that may not apply, but, you know,  
13 through your discussion you should analyze this, is  
14 10-4(1)(c), No officer or employee of the county shall:  
15 Engage in any business transaction or activity or have a  
16 financial interest, direct or indirect, which is incompatible  
17 with the proper discharge of the officer's or employee's  
18 official duties or which may tend to impair the officer's or  
19 employee's independence of judgment in the performance of the  
20 officer's or employees official duties.

21 Similarly, sort of, is e, Fail to disclose a  
22 financial interest in any matter which may be affected by an  
23 action of a county agency or vote on any matter affected by  
24 such interest.

25 So you should analyze that and ask him any

1 questions. To me, the operative words are "engage in a  
2 business transaction or activity," which based on the letter  
3 he provided and his testimony today, I don't think he's doing.

4 Another operative word is "have a financial  
5 interest," which we just heard from him as well as his letter,  
6 it does not seem to appear that there's any financial  
7 interest.

8 So those are the three sections that jumped out at  
9 me, but you're welcome to review all of them and discuss and  
10 deliberate.

11 CHAIR MACARIO: All right. Thank you, Jen.

12 Okay. Any questions for Member Molina?

13 MR. MOLINA: Mr. Chair, before you move forth with  
14 questions, I have disclosed this in open session to my fellow  
15 colleagues on the council as well when Munekiyo & Hiraga had a  
16 project come before us, so they -- at least for that  
17 particular project, they had no problem with me going forward,  
18 so I just wanted to throw that in for your information.

19 CHAIR MACARIO: All right. Thank you.

20 Dave, did you have a question?

21 MEMBER WEISS: I did. And, you know, I always look  
22 for appearance of a conflict, so is there -- and I'm not  
23 familiar with what committees you're on -- any committee that  
24 you would serve that this company would come in front of you  
25 for a vote?



1 MR. MOLINA: Yes. I'm currently a member of the  
2 affordable housing committee, I serve as the vice chair, and  
3 for the most part their -- their applicants do come to that  
4 committee for any affordable housing proposals. And I also  
5 serve on the planning and land use committee, which some of  
6 the applicants may come before us for those two specific  
7 committees. And, of course, when the matter goes before the  
8 full council, then, of course, I am a participant.

9 MEMBER WEISS: Thank you.

10 CHAIR MACARIO: Any other questions for --

11 MEMBER LEWIS: I have a question.

12 Thank you, Mr. Molina, for showing -- for coming  
13 today.

14 MR. MOLINA: You're welcome.

15 MEMBER LEWIS: Just to clarify, just to make sure,  
16 your daughter is not financially dependent on you; is that  
17 correct?

18 MR. MOLINA: Yes, correct.

19 MEMBER LEWIS: Thank you.

20 MR. MOLINA: Yeah. She lives at home and -- she  
21 graduated from college in 2018 and came home and then she was  
22 offered a position at Munekiyo & Hiraga as a planner. She, I  
23 guess, majored in environmental sciences and -- I forget what  
24 her other major is, but, you know, she's really blessed, she  
25 has her mother's brains in that area.

1 (Laughter.)

2 MR. MOLINA: Much more so than dad.

3 MEMBER LEWIS: Thank you.

4 CHAIR MACARIO: Any other questions? Go ahead,  
5 Bill.

6 MEMBER CURTIS: So you will disclose --

7 MR. MOLINA: Yeah. And --

8 MEMBER CURTIS: -- on a repeated basis when --

9 MR. MOLINA: Yes.

10 MEMBER CURTIS: -- your relationship exists?

11 MR. MOLINA: Yeah. I'll certainly remind my -- my  
12 colleagues on the council that -- every time as necessary.  
13 They -- it depends on the project that she's assigned to, she  
14 may serve in a role that's more in a -- in a role that  
15 wouldn't require her to come before the council, but there are  
16 some other projects she has been assigned to where they  
17 initially wanted her to come before the council, but because  
18 of, you know, this situation, they reframed from having her do  
19 that, which is why they asked me to come and seek direction  
20 from you.

21 Yeah, basically, she -- if she were the front person  
22 to present to the council, she would just basically provide  
23 information, but in no way do any lobbying and -- 'cause  
24 either way, the consulting firm gets paid, whether the  
25 applicant's proposal is approved or denied by the council. So

1 they basically provide walk-through services. In her case,  
2 she's an analyst, she does research for environmental  
3 assessments and I'm -- she may also assist with walking the  
4 client through the permit process. So basically they do the  
5 running around for the client and as you well know, the county  
6 permitting process can be cumbersome and time consuming.

7 MEMBER CURTIS: So as a follow-up, you -- you  
8 mentioned in your letter that she's only working for private  
9 clients. I know that this particular firm also does work for  
10 the County of Maui, is she not involved in the public works  
11 projects?

12 MR. MOLINA: I'm not sure at this point. They may  
13 have had her work on some government or county-related  
14 projects.

15 MEMBER CURTIS: So my question is: Would you like  
16 to amend this letter to include the potential of public works,  
17 just so you cover that --

18 MR. MOLINA: Sure. No problem.

19 MEMBER CURTIS: -- that potential?

20 MR. MOLINA: Yes.

21 CHAIR MACARIO: Okay. Any other questions?

22 MS. OANA: I just have some simple questions.

23 CHAIR MACARIO: Go ahead, Jen.

24 MS. OANA: Councilmember Molina, just to put on the  
25 record, your daughter is an adult over the age of 18; is that

1 correct?

2 MR. MOLINA: Yes.

3 MS. OANA: And Gerri asked you whether -- or she's  
4 not financially dependent on you, I want to just flip that  
5 around, you're not financially dependent on her?

6 MR. MOLINA: No, not at all.

7 MS. OANA: Not at all. Thank you.

8 CHAIR MACARIO: I just have one question. Has your  
9 daughter acquired any information through you that might  
10 present a conflict?

11 MR. MOLINA: Oh, not at all. I made it quite clear  
12 that we don't discuss any of her business at home and if  
13 there's -- as a matter of fact, when she does go and see  
14 council members, she does not come and see me, she sees the  
15 other eight council members. Munekiyo & Hiraga will  
16 substitute someone else to provide the information about the  
17 same projects she may be working on, but she never directly  
18 deals with me.

19 CHAIR MACARIO: Okay. And this has come up in the  
20 past in relation to some issues that have come before us, but  
21 it's my understanding that there is -- or there are council  
22 rules that apply in cases where a member may have a financial  
23 interest or some other interest that they are required to  
24 disclose, I think it might be Rule 9.C or D, I can't remember  
25 exactly what it is. Are you familiar with those rules?

1 MR. MOLINA: Yes.

2 CHAIR MACARIO: And I'm assuming that to the extent  
3 that you're implicated here, you would, of course, comply with  
4 those as well?

5 MR. MOLINA: Definitely, yeah. And, you know,  
6 we're -- it's almost a given that you -- you should know  
7 better as a county -- if there is any possible conflict, you  
8 should disclose that openly to the members.

9 And then I'm not sure what the policy was in the  
10 past, but now the council can disagree with you. If you  
11 request a recusal on any item, then if the members feel that,  
12 you know, they don't believe you're in conflict, then it's up  
13 to the body to decide whether or not to move forward. But in  
14 most cases they agree with the members. Recently  
15 Councilmember King made a request to recuse herself from an  
16 item and -- in open session and, you know, it was agreed upon  
17 by the council. But I can't recall anything -- any situation  
18 where a council member made a request to recuse him or herself  
19 and was denied that and still allowed -- well, was actually to  
20 vote in spite of their request to recuse themselves, so -- but  
21 it could occur, so...

22 CHAIR MACARIO: Thank you.

23 Any other questions for Councilmember Molina?

24 (No response.)

25 CHAIR MACARIO: All right. Thank you very much.

1 Appreciate it.

2 MR. MOLINA: Thank you very much.

3 CHAIR MACARIO: Okay. So at this time I will  
4 solicit a motion as to how we should proceed with Mr. Molina's  
5 request for an advisory opinion.

6 MS. VICENS: Chair, does Councilmember Molina need  
7 to remain in --

8 CHAIR MACARIO: He doesn't need to. He's certainly  
9 welcome, but -- if you'd like to hear what we decide, he's  
10 welcome to stay.

11 MR. MOLINA: Well, I'll leave then. I'll leave the  
12 meeting.

13 CHAIR MACARIO: Okay. Thank you.

14 MR. MOLINA: Thank you.

15 MEMBER WEISS: Chair, this is Dave. I do make a  
16 motion that at the very least if an advisory letter goes out  
17 and -- to instruct Mr. Molina to disclose his relationship not  
18 only when his daughter is presented, but when the firm is  
19 presented.

20 CHAIR MACARIO: Okay. Is there -- so let me make  
21 sure I understand this. The motion is to issue an advisory  
22 opinion essentially saying, Yes, you may proceed; however, you  
23 should disclose any time a matter by Munekiyo Hiraga comes  
24 before you, essentially?

25 MEMBER WEISS: Regardless if it's his daughter,

1 not -- to disclose that his daughter's an employee of the  
2 company.

3 CHAIR MACARIO: Okay. Great. Is there a second?

4 MEMBER CLAYTON: And maybe add that whether it be  
5 committee or council meetings, you know, because he's on  
6 committees that are affected.

7 CHAIR MACARIO: I think that's what you intended;  
8 right?

9 MEMBER WEISS: Any time.

10 MEMBER CLAYTON: Any time it comes up.

11 MEMBER WEISS: Whether to general council or --

12 MEMBER CLAYTON: Yeah.

13 CHAIR MACARIO: Or in a committee.

14 MEMBER WEISS: 'Cause he's in planning and he's all  
15 over the place.

16 CHAIR MACARIO: Okay. Great. So with that  
17 clarification, is there a second?

18 MEMBER CLAYTON: Second.

19 MEMBER CURTIS: Second.

20 CHAIR MACARIO: Okay. So Donna and Bill both  
21 seconded. Any discussion on that?

22 MEMBER CURTIS: Should this be expanded -- because  
23 he's going to be vote -- he votes as a member of the whole on  
24 budget and so if these -- if the county is hiring this firm to  
25 do design work, he's approving budget line items that

1 potentially would go to this firm.

2 MEMBER WEISS: Yeah. I think a general disclosure  
3 that anything to do with this -- the firm Munekiyo & Hiraga,  
4 that he discloses that his daughter's an employee.

5 MEMBER CURTIS: Yeah. So as they do individual  
6 items, fine, but when they vote on the budget as a whole, I  
7 mean, it's understood that -- do we need to him do that when  
8 they do the overall budget?

9 CHAIR MACARIO: Typically, we have not. We've only  
10 had it go on a per --

11 MEMBER CURTIS: Per --

12 CHAIR MACARIO: -- first, but if it's part of the  
13 bigger budget package, typically we don't --

14 MEMBER CURTIS: So is that something that we would  
15 like to add, that we understand that they may come in the  
16 overall budget and disclosure is understood from your  
17 previous --

18 CHAIR MACARIO: Go ahead, Jen.

19 MS. OANA: You know, I'm not sure in the budget  
20 hearings they go specifically into the consultants' names.

21 MEMBER CURTIS: Okay.

22 MS. OANA: I'm not sure.

23 MEMBER CURTIS: Okay.

24 MS. OANA: But --

25 MEMBER WEISS: They just allocate money for --



1 MEMBER CURTIS: They're just allocating money.

2 MS. OANA: Yeah.

3 MEMBER WEISS: That's what I thought.

4 MS. OANA: And at that point they may not know who  
5 the contractor --

6 MEMBER CURTIS: Okay. So he wouldn't be --

7 MEMBER WEISS: Just for projects.

8 MS. OANA: -- for the project is.

9 MEMBER CURTIS: Okay. So he wouldn't be  
10 specifically approving --

11 CHAIR MACARIO: Yeah.

12 MEMBER CURTIS: -- money for them in the budget  
13 process.

14 CHAIR MACARIO: Good point, though. To me, the next  
15 question is what about voting. So, you know, obviously we've  
16 advised him to disclose, I think we should also respond --  
17 because I'm pretty sure his letter asks also whether he can  
18 vote -- or maybe --

19 MS. OANA: And I'm sure that's what he wants to  
20 know.

21 CHAIR MACARIO: I'm sure that's what he wants to  
22 know, is whether he can both participate in the discussion and  
23 vote. I think Dave's point about having him disclose is an  
24 important one, but we also should say whether he can vote. My  
25 own personal opinion is that he can after disclosure unless

1 circumstances or -- you know, a lot of this is unforeseeable,  
2 but --

3 MEMBER CURTIS: And the council has their own  
4 mechanism for --

5 CHAIR MACARIO: Exactly. And that's why I asked him  
6 that question.

7 MEMBER WEISS: And you don't want to render the guy  
8 ineffective, so --

9 MEMBER CURTIS: Yeah, right.

10 MEMBER WEISS: -- I would agree, you know,  
11 disclosure and -- and allow him to vote.

12 CHAIR MACARIO: Right.

13 MEMBER CURTIS: Good.

14 CHAIR MACARIO: Okay. Any other discussion?

15 You know how to write this, Jen? Any questions for  
16 us before --

17 MEMBER CURTIS: Allow him to vote --

18 MS. OANA: I think I --

19 MEMBER CURTIS: -- unless there's objection by  
20 council.

21 CHAIR MACARIO: Well, I don't know that we want to  
22 substitute ourselves for, you know, their internal --

23 MEMBER CURTIS: Okay.

24 CHAIR MACARIO: I don't --

25 MEMBER WEISS: 'Cause he can disclose and then

1 say --

2 CHAIR MACARIO: I think what we can say --

3 MEMBER CURTIS: So they have their own set of rules  
4 separate from --

5 MEMBER WEISS: Yeah.

6 MEMBER CURTIS: Okay.

7 CHAIR MACARIO: Yeah.

8 MEMBER CURTIS: Then we don't need -- we don't need  
9 to cover that here.

10 MS. OANA: So we can say he can vote after  
11 disclosure, but -- whatever the usual language is, follow the  
12 rules of council as well.

13 CHAIR MACARIO: Yeah, that's sort of what I'm  
14 anticipating. You know, these kind of have to be done case by  
15 case, but I think generally what we're saying is, you know, as  
16 long as you disclose, there will be a process where your  
17 fellow council members will determine whether you can vote and  
18 you'll have to make that decision yourself. But I don't think  
19 we need to weigh in on that, necessarily, except to say that  
20 we're not aware of any ethical reason why he can't vote, so...

21 All right. Any other discussion?

22 (No response.)

23 CHAIR MACARIO: All in favor?

24 (Response.)

25 CHAIR MACARIO: All opposed?

1 (No response.)

2 CHAIR MACARIO: Okay. That carries unanimously.  
3 Jen will do the first draft of this and send it to me and  
4 then, hopefully, by the next meeting we'll have a formal  
5 letter to propose to the rest of you.

6 All right. So that ends -- I think -- I wasn't sure  
7 if I finished the last thing I said, which is Item 8, which is  
8 that our next meeting here is March 11th, 12:30, here in this  
9 room. Is there any new business that anyone would like to  
10 discuss at the next meeting that, since I'm partially  
11 responsible for setting the agenda, I can make a note of.

12 MEMBER WEISS: Yes. Carve out some time for your  
13 going away, your farewell celebration.

14 MEMBER CLAYTON: Yeah.

15 CHAIR MACARIO: Me and Sara, yeah. Hopefully Sara  
16 will be back.

17 MEMBER WEISS: You're going to leave a big hole in  
18 this commission.

19 CHAIR MACARIO: Sara, unfortunately, is still  
20 getting treatment. I don't know if she's -- if she's in  
21 rehabilitation. So hopefully she's getting better, but I'm  
22 hoping she'll be here for the next meeting, I just don't know.  
23 But that's fine, I'm happy to devote some time to -- to that  
24 if you folks would like.

25 Anything else? Any other new business or anything

1 else you guys want to have on the agenda?

2 (No response.)

3 CHAIR MACARIO: Okay. Then hearing none, at this  
4 point I'll solicit a motion to adjourn regular session and to  
5 proceed to executive session.

6 MEMBER CLAYTON: So moved. Donna.

7 CHAIR MACARIO: Okay. Is there a second?

8 MEMBER WEISS: Dave. Second.

9 CHAIR MACARIO: All right. All in favor?

10 (Response.)

11 CHAIR MACARIO: All opposed?

12 (No response.)

13 CHAIR MACARIO: Okay. That carries unanimously.

14 (Pause in proceedings: 1:27 p.m.-1:42 p.m.)

15 CHAIR MACARIO: We're back in regular session. Is  
16 there a motion to approve --

17 MS. OANA: Excuse me, Chair. Did you want to --

18 CHAIR MACARIO: Oh, yes.

19 MS. OANA: -- note Sara and Rachel's --

20 CHAIR MACARIO: Yeah. Let the record reflect that  
21 Members Gadarian and Phillips are excused. They're not  
22 present today, but they're excused.

23 Okay. Is there a motion to approve all decisions  
24 made in executive session?

25 MEMBER CLAYTON: So moved. Donna.

1 CHAIR MACARIO: Is there a second?

2 MEMBER WEISS: This is Dave. Second.

3 CHAIR MACARIO: All right. All in favor?

4 (Response.)

5 CHAIR MACARIO: All opposed?

6 (No response.)

7 CHAIR MACARIO: That carries unanimously.

8 All right. And, finally, a motion to adjourn our

9 meeting today.

10 MEMBER WEISS: Chair, I make a motion to adjourn the

11 meeting of February 12th.

12 CHAIR MACARIO: Thank you, Dave.

13 Is there a second?

14 MEMBER LEWIS: Second. Gerri.

15 CHAIR MACARIO: Okay. All in favor?

16 (Response.)

17 CHAIR MACARIO: All opposed?

18 (No response.)

19 CHAIR MACARIO: Thank you. Our motions -- or,

20 excuse me, our meeting is concluded at 1:42 p.m. Thank you

21 all. (Gavel.)

22 (The proceedings were adjourned at 1:42 p.m.)

23

24

25

