

COUNTY OF MAUI, STATE OF HAWAII

BOARD OF ETHICS

ORIGINAL

MINUTES OF THE REGULAR SESSION

Held at the Planning Department Conference Room,
Kalana Pakui Building, Wailuku, Maui, Hawaii, commencing at
12:30 p.m., on Wednesday, February 14, 2007.

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REPORTED BY: Katherine Eismann, RDR, CRR, CSR #439

A P P E A R A N C E S

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CHAIRPERSON: BARRY HELLE
VICE-CHAIRPERSON: ALAN KAUFMAN
BOARD MEMBERS: NANE ALULI
RANDOL LEACH
JOCELYN A. BOUCHARD
VINCENT R. LINARES
DEPUTY CORPORATION COUNSEL: JOHN D. KIM
BOARD SECRETARY: LINDA K. KIMURA

1 (Wednesday, February 14, 2007, 12:30 p.m.)

2 * * * * *

3 CHAIRPERSON HELLE: Okay. I'd like to call the
4 meeting for the Maui County Board of Ethics for Wednesday,
5 February 14th, to order.

6 At this time, I would like to take a vote on our
7 minutes of our meeting from the last time on January 17th. At
8 this time, the Chair will entertain a motion regarding the
9 minutes.

10 BOARD MEMBER LINARES: So move.

11 MS. KIMURA: Excuse me, Chair. On page two of the
12 transcript, it states that Mr. Helle -- no, John Pele was
13 present, so there needs to be a correction to that. Mr. Pele
14 was not here.

15 CHAIRPERSON HELLE: Okay. Okay. So noted. Any
16 other comments?

17 BOARD MEMBER LINARES: I move that they be passed
18 as amended.

19 CHAIRPERSON HELLE: Okay.

20 VICE-CHAIRPERSON KAUFMAN: Second.

21 CHAIRPERSON HELLE: All right. All those in
22 favor, say aye.

23 (Chorus of ayes.)

24 All right. Minutes are passed. Is there any
25 public testimony in regards to anything? Ma'am.

1 UNIDENTIFIED WOMAN: I'm from the Maui News.

2 CHAIRPERSON HELLE: Okay. Okay. All right. Got
3 to ask.

4 Okay. Following the agenda, Item Number 4, old
5 business, there is none. Item -- what was that -- 4(b),
6 communication item, letter from Lorna Aratani, Legislative
7 Coordinator, Office of Information Practices, regarding
8 legislative proposals to amend the Sunshine Law.

9 Those were provided in each of your packets. We
10 had asked them to just keep us abreast of what they were
11 submitting, and that has been provided to us by the Office of
12 Information Practices. I don't know if we need to take any
13 action or whether anybody has strong feelings one way or
14 another as far as writing -- you know, providing testimony in
15 support of these. Doesn't seem to be. Okay, so we will just
16 file that at this time.

17 Okay. We also had item 4(c) review of an
18 approval -- review and approval of an advisory opinion for
19 Dave DeLeon, former employee of Mayor's Office regarding
20 possible post-employment. And I believe a copy of that was
21 also provided to everybody.

22 Was there any discussion on the -- actually, we'll
23 take a motion to approve the advisory opinion as provided.

24 BOARD MEMBER LINARES: I just had a question.

25 CHAIRPERSON HELLE: Sure.

1 BOARD MEMBER LINARES: This came from you?

2 DEPUTY CORPORATION COUNSEL: Me? No, that came
3 from the Board.

4 BOARD MEMBER LINARES: But I mean the legal -- the
5 legal -- it was all checked out legally and --

6 DEPUTY CORPORATION COUNSEL: Oh, you mean if I
7 read it?

8 BOARD MEMBER LINARES: Yeah.

9 CHAIRPERSON HELLE: You actually wrote it, didn't
10 you?

11 BOARD MEMBER LINARES: I mean, who wrote this?

12 DEPUTY CORPORATION COUNSEL: The Chairperson wrote
13 it. I ghost wrote it.

14 BOARD MEMBER LINARES: Okay. Because we had a lot
15 of questions about the ambiguity of some of the statements
16 that we looked at in the County Code and all that, so -- okay.
17 I'm just so new at this, so this is the legal opinion of the
18 County.

19 DEPUTY CORPORATION COUNSEL: Of the Board of
20 Ethics.

21 CHAIRPERSON HELLE: Board of Ethics, yeah.

22 BOARD MEMBER LINARES: Which is backed by the
23 legal authority of the County?

24 DEPUTY CORPORATION COUNSEL: Well, based on the
25 past opinions as well as the interpretation of the current

1 code --

2 BOARD MEMBER LINARES: Okay.

3 DEPUTY CORPORATION COUNSEL: -- ordinance, and the
4 Charter.

5 BOARD MEMBER LINARES: All right.

6 CHAIRPERSON HELLE: Again, we will entertain a
7 motion on this advisory opinion.

8 BOARD MEMBER ALULI: I just got a question. Will
9 DeLeon receive this after it's signed by us? That's when he
10 receives a copy?

11 DEPUTY CORPORATION COUNSEL: Yes, once it's signed
12 and approved by the -- or once it's approved and then signed
13 by the Board, then it's published. And we will be sending him
14 a copy as well as there are others that we said that we will
15 send copies.

16 BOARD MEMBER LINARES: One more question, too. Is
17 there any particular reason why the word "for compensation" is
18 in there?

19 BOARD MEMBER ALULI: I had a question on that,
20 too, but I --

21 BOARD MEMBER LINARES: Because he should not --
22 I'm just wondering. He is being compensated in his position.
23 So, why does it make special, because he should not attempt to
24 influence either orally or in writing whether he's compensated
25 or not. Is that clear?

1 DEPUTY CORPORATION COUNSEL: What line are you
2 talking about?

3 BOARD MEMBER LINARES: The very last part of
4 the --

5 BOARD MEMBER ALULI: Page two.

6 BOARD MEMBER LINARES: DeLeon should refrain from
7 direct lobbying-type efforts on behalf of a client. That is
8 he should not for compensation attempt. I'm just wondering if
9 for compensation means he can do it if it's not for
10 compensation.

11 BOARD MEMBER ALULI: My interpretation of that was
12 that it would be some kind of compensation coming from the
13 County as a result of his presenting himself for whatever
14 purpose.

15 BOARD MEMBER LINARES: Okay.

16 DEPUTY CORPORATION COUNSEL: He could do it, say,
17 if he was lobbying for his own personal property. Say he
18 had -- wanted to building a building and had to go to the
19 Mayor's Office and ask them to sign off on a variance for his
20 building.

21 BOARD MEMBER LINARES: Uh-huh.

22 BOARD MEMBER ALULI: The decision -- the decision
23 by that official would have been the compensation that he
24 would have been receiving, correct? Not -- because this could
25 also be interpreted, I think anyway, that he would be

1 receiving compensation from, say, a County Department, and
2 that's not the case. His compensation would be as a result of
3 his appearing before whatever committee or board seeking a
4 decision in favor of the entity he represented.

5 DEPUTY CORPORATION COUNSEL: Oh, I see.

6 BOARD MEMBER ALULI: Right?

7 DEPUTY CORPORATION COUNSEL: Do you want to take
8 that out? That he shouldn't appear --

9 BOARD MEMBER LINARES: Yes.

10 DEPUTY CORPORATION COUNSEL: -- on behalf of any
11 client?

12 BOARD MEMBER LINARES: Yes, that's what I'm
13 getting at. That he shouldn't receive compensation from
14 anyone for any purpose.

15 BOARD MEMBER ALULI: That's what this --

16 DEPUTY CORPORATION COUNSEL: You mean not lobby
17 for anybody for any purpose, even if he's not getting
18 compensated?

19 BOARD MEMBER LINARES: Well, the point is the fact
20 that we are confused about -- I mean, the fact that these
21 questions are coming up. I mean, I'm an English professor,
22 and that to me infers several things. That for compensation
23 in a piece of writing, I would say that infers something could
24 or could not happen.

25 So, I think either you take it out, or you say for

1 compensation from any body, any body not anybody, and that
2 makes it clearer to me, unless, of course, you think he can
3 get compensated.

4 The next line says attempt to influence either
5 orally or in writing. Is that tied to getting paid or not
6 getting paid, or what does the word compensate mean? Is it
7 both dollar or is it some act, as you said.

8 BOARD MEMBER ALULI: Or a decision, favorable
9 decision.

10 BOARD MEMBER LINARES: Right.

11 DEPUTY CORPORATION COUNSEL: Oh, no. The section
12 of the Charter says no officer or employee of the County
13 shall: (b) no former nonelected salaried employee or officer
14 of the County shall appear for compensation before any
15 Department or other agency of the County by which such
16 employee or officer was last employed within a period of one
17 year after termination of service to the employment of the
18 County. So --

19 BOARD MEMBER LINARES: Who's giving the
20 compensation? That's what I'm unclear about.

21 DEPUTY CORPORATION COUNSEL: His clients.

22 CHAIRPERSON HELLE: His clients.

23 DEPUTY CORPORATION COUNSEL: Okay. So, if I work
24 for the Office of the Mayor, in this case --

25 BOARD MEMBER LINARES: Right.

1 DEPUTY CORPORATION COUNSEL: -- and I terminate --
2 the service is terminated. For a period of one year after
3 I've worked for the Mayor, I should not appear in the Office
4 of the Mayor for compensation and lobby on behalf of the
5 client that's paying me. For example --

6 BOARD MEMBER LINARES: Okay.

7 DEPUTY CORPORATION COUNSEL: -- I cannot now go
8 and work for --

9 BOARD MEMBER LINARES: Okay. I understand that,
10 but the way I read this, is it's -- this compensation could be
11 from anybody, not just who he or she is working for. Am I the
12 only one that sees that or --

13 DEPUTY CORPORATION COUNSEL: Well, you have a very
14 paranoid mind.

15 (Laughter.)

16 BOARD MEMBER ALULI: But, I think --

17 BOARD MEMBER LINARES: Yes, I do. I work for the
18 State.

19 (Laughter.)

20 BOARD MEMBER LEACH: Compensated means he's
21 working for someone representing an entity getting paid from
22 someone.

23 BOARD MEMBER LINARES: Right, right.

24 CHAIRPERSON HELLE: And he now works for the Real
25 Estate Board.

1 BOARD MEMBER LEACH: Right. He's employed by
2 someone else that he's representing. That's how I look at it.

3 BOARD MEMBER ALULI: And what I also thought is it
4 could be interpreted such that he -- a decision in favor of
5 that Association is --

6 DEPUTY CORPORATION COUNSEL: No, just strictly
7 speaking --

8 BOARD MEMBER ALULI: Doesn't have anything to do
9 with that.

10 DEPUTY CORPORATION COUNSEL: No, because, I mean,
11 that's his job is to convince the agency to go the way of his
12 client.

13 BOARD MEMBER ALULI: Correct.

14 DEPUTY CORPORATION COUNSEL: But in this case, I
15 think we -- the Board told him, look, for a period of one
16 year, you can make appointments with the Mayor's Office, you
17 can sit down and take notes, but you will not participate in
18 any lobbying effort, in writing or otherwise, in the Office of
19 the Mayor.

20 BOARD MEMBER LINARES: Okay.

21 DEPUTY CORPORATION COUNSEL: And it was pretty
22 specific on that. And I think Mr. Stewart warned him, you
23 know, this is a very fine line we are drawing, and you got to
24 be careful, because if you cross it, then you've violated
25 those ethics.

1 BOARD MEMBER LINARES: See, that's why, because it
2 is such a very fine line, and since we were so careful last
3 time, I just want to be sure that that compensation line is
4 very clear.

5 DEPUTY CORPORATION COUNSEL: Sure. That's what it
6 mean.

7 BOARD MEMBER ALULI: Let me ask this question. As
8 an English professor then, how would you reword that?

9 BOARD MEMBER LINARES: Well, I put myself out
10 there by saying I'm an English professor. But it's just that
11 for compensation to me, it was unclear as to compensation from
12 who? Who he's employed by or anybody else?

13 So, for compensation from anybody, or any body, I
14 don't know, that to me would make it very clear. His boss,
15 the County, somebody that paid him to go and talk, that's all.
16 But if you all are comfortable with that, I'm comfortable with
17 it. It's just that that just came right out at me.

18 DEPUTY CORPORATION COUNSEL: Okay.

19 BOARD MEMBER BOUCHARD: Don't we -- as a body,
20 don't we respond to the issue that's brought before us as
21 opposed to venturing into generalities. So, to answer that
22 question, he wrote to us as his position with the Board of
23 Realtors, so that's what our opinion is stemming from
24 specifically.

25 CHAIRPERSON HELLE: That's correct.

1 BOARD MEMBER LINARES: Good point.

2 DEPUTY CORPORATION COUNSEL: And I think there's a
3 proviso, that if circumstances would change, that he should
4 seek further advice.

5 BOARD MEMBER ALULI: Yeah.

6 BOARD MEMBER LINARES: Well then, I withdraw my --

7 BOARD MEMBER ALULI: Your inquiry.

8 CHAIRPERSON HELLE: Those are good questions
9 though.

10 VICE-CHAIRPERSON KAUFMAN: And I will go ahead and
11 move that we accept the advisory opinion.

12 CHAIRPERSON HELLE: Okay. Any second?

13 BOARD MEMBER LINARES: Second.

14 CHAIRPERSON HELLE: Any further discussion? All
15 those in favor.

16 (Chorus of ayes.)

17 Okay. Passed. Moving on.

18 BOARD MEMBER LINARES: Now I'm paranoid.

19 CHAIRPERSON HELLE: Sorry. That's okay. New
20 business, financial disclosures, and you were provided a --

21 VICE-CHAIRPERSON KAUFMAN: Pardon me. I am very
22 sorry, Mr. Chair. Did that vote reflect -- do I still need to
23 recuse myself from --

24 DEPUTY CORPORATION COUNSEL: Yeah.

25 VICE-CHAIRPERSON KAUFMAN: I want to make sure the

1 vote reflects that.

2 DEPUTY CORPORATION COUNSEL: And there is that
3 language on your signature line.

4 CHAIRPERSON HELLE: That's right. Okay. All
5 right.

6 New business, again you were provided a list of
7 financial disclosures, starting with Michelle Anderson, going
8 all the way to Eric Yamashige. And at this time, the Chair
9 will entertain a motion on any one of those or all of them as
10 a group.

11 VICE-CHAIRPERSON KAUFMAN: I will move that they
12 all be accepted as submitted with the provision that on
13 Mr. Hanano's item three, that he specify for our secretary the
14 percent ownership, which was left off.

15 CHAIRPERSON HELLE: Okay. And that was in regards
16 to item --

17 VICE-CHAIRPERSON KAUFMAN: Item number three.

18 CHAIRPERSON HELLE: Item three on Mr. Hanano's,
19 okay, percent of ownership. Any further discussion on --

20 BOARD MEMBER LINARES: Did Alan get a second?

21 DEPUTY CORPORATION COUNSEL: No, not yet.

22 CHAIRPERSON HELLE: No?

23 BOARD MEMBER LINARES: Second.

24 CHAIRPERSON HELLE: Okay. No further discussion?

25 Okay. All those in favor of accepting everyone from Anderson

1 through Yamashige, with the item that was noted by
2 Mr. Kaufman, please indicate so by saying aye.

3 (Chorus of ayes.)

4 BOARD MEMBER LINARES: Now I have a question after
5 the vote.

6 CHAIRPERSON HELLE: Okay.

7 BOARD MEMBER LINARES: Does anybody check this out
8 or do we believe the -- I mean, we believe the honor of these
9 documents?

10 CHAIRPERSON HELLE: Primarily, we believe they
11 are -- we take their word for it.

12 BOARD MEMBER LINARES: Okay. And has anybody ever
13 questioned any of these, or has any action on the Ethics Board
14 ever been done because someone didn't believe what was on
15 here?

16 CHAIRPERSON HELLE: Good question.

17 DEPUTY CORPORATION COUNSEL: Not to my knowledge.

18 CHAIRPERSON HELLE: There's times when we ask for
19 more clarification when we are not satisfied with the detail.

20 BOARD MEMBER LINARES: Okay. All right.

21 DEPUTY CORPORATION COUNSEL: For example, there
22 may be property listed under for their credit, and then it
23 doesn't show up as a loan.

24 BOARD MEMBER LINARES: Okay. But basically, we
25 believe in the ethics that what they submit is ethical and

1 truthful. That's just a --

2 DEPUTY CORPORATION COUNSEL: Just to let you know,
3 they are public documents.

4 BOARD MEMBER LINARES: Right, right.

5 DEPUTY CORPORATION COUNSEL: With respect to the
6 directors and deputies as well as the elected officials.

7 BOARD MEMBER LINARES: Because somebody asked me
8 about this. They said you review these and you approve them
9 for processing. Does anybody ever really check it out? And I
10 said, well, I'll ask.

11 CHAIRPERSON HELLE: Okay. Mr. Kaufman.

12 VICE-CHAIRPERSON KAUFMAN: Yeah, I would point out
13 a couple of things. Like with Mr. Hanano's today, the amount
14 of percent ownership that was left vacant, it's just a
15 formality to get that percent.

16 BOARD MEMBER LINARES: Right.

17 VICE-CHAIRPERSON KAUFMAN: However, I moved to
18 approve it, because it is an amount under \$10,000. If it had
19 been in the box checked 1 million or more, I would have left
20 it out for approval.

21 BOARD MEMBER LINARES: Yeah. Thank you.

22 CHAIRPERSON HELLE: All right. Moving along.
23 Item 5(b), communication items, we were all provided a letter
24 from Tamio Iwado, who is a member of this Board. It was dated
25 January 18th. And basically, the crux of his letter was to

1 say that he was going to miss today's meeting and next month's
2 meeting, and then his five-year term on this Board would be
3 finished.

4 And so basically, he's letting us know that his
5 service to this Board is basically ended. And we will just
6 file that letter for everybody's information.

7 Also, item 5(c), we had some lobbyist
8 registrations come in. Excuse me. Mr. Timothy Hill, Richard
9 Mirikitani, Harry Saunders, and Gary Yokoyama. And I believe
10 they were all with -- were they all with Castle & Cooke?

11 BOARD MEMBER LINARES: Uh-huh.

12 CHAIRPERSON HELLE: And again, this really does
13 not require any action of the Board. We will just note that
14 they have submitted those lobbyist registrations, and they are
15 on file with this -- with this Board.

16 BOARD MEMBER LINARES: Okay. I have another
17 question.

18 CHAIRPERSON HELLE: Go right ahead.

19 BOARD MEMBER LINARES: I'm full of questions
20 today. So, Mr. Iwado is done with us. Does he get a letter
21 or anything for service?

22 DEPUTY CORPORATION COUNSEL: Traditionally, the
23 Office of the Mayor will issue a Certificate of Merit and
24 Appreciation with the official County seal.

25 BOARD MEMBER LINARES: Okay. And the reason I ask

1 that, for example, for somebody like me, if I serve on this
2 Board, in my profession, that would be very important to have
3 a letter in my professional documents at the university to say
4 I had served on the Board of Ethics. Let's say I had
5 political ambition or something, I would need to have proof of
6 that. Okay. Thank you.

7 DEPUTY CORPORATION COUNSEL: Okay.

8 CHAIRPERSON HELLE: Let's see. That brings us --
9 basically, we don't have any other items for our Regular
10 Session. And at this time, we will entertain a motion to move
11 into Executive Session.

12 DEPUTY CORPORATION COUNSEL: That would be a
13 motion to enter into Executive Session to review financial
14 disclosures of Commission members and one leftover disclosure.

15 MS. KIMURA: Excuse me. Chair, at this time --

16 DEPUTY CORPORATION COUNSEL: It hasn't been moved
17 yet.

18 MS. KIMURA: Because I need to lock the door and
19 he's present.

20 VICE-CHAIRPERSON KAUFMAN: So move.

21 DEPUTY CORPORATION COUNSEL: The motion is to move
22 to Executive Session to discuss various financial disclosures
23 and to review an advisory request from the Director.

24 CHAIRPERSON HELLE: Okay. And we have a second,
25 right?

1 BOARD MEMBER LINARES: Yep.

2 CHAIRPERSON HELLE: All those in favor say aye.

3 (Chorus of ayes.)

4 (Recessed 12:47 p.m. Resumed 1:10 p.m.)

5 CHAIRPERSON HELLE: Okay. We are back in regular
6 session. One final note would be that the next meeting would
7 be on March 14th, which is a Wednesday, I believe, right here
8 at this same location. And we will take a motion to adjourn.

9 BOARD MEMBER LINARES: So move.

10 BOARD MEMBER ALULI: Second.

11 CHAIRPERSON HELLE: And all those in favor.

12 (Chorus of ayes.)

13 We are adjourned.

14 (Adjourned, 1:10 p.m.)

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CERTIFICATION

I, KATHERINE EISMANN, CSR 439 in and for the State of Hawaii, do hereby certify:

That the proceedings were taken by me in machine shorthand and were thereafter reduced to print under my supervision by means of computer-assisted transcription; that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto, nor in any way interested in the outcome of the cause named in the caption.

Dated this 27th day of February 2007.


Katherine Eismann, CSR 439