

# HAWAI‘I COUNTY BOARD OF ETHICS

## MINUTES – REGULAR SESSION

Monday, November 16, 2020

10:00 a.m. to 12:43 p.m.

Hawai‘i County Building

25 Aupuni Street

County Council Chambers

Hilo, Hawai‘i 96720

### Members and Staff Present:

Rick Robinson, Chair

David Wiseman, Vice Chair

Nan Sumner-Mack, Member

Lawrence L. Heintz, Member

Denise Nakanishi, Member

J Yoshimoto, Deputy Corporation Counsel

Maria Pagala, Secretary

Liza Osorio, Secretary

## 1. CALL TO ORDER (10:00 a.m.)

Mr. Robinson called the meeting to order at 10:00 a.m.

Mr. Robinson: So before we get to Statements from the public, I’m going to allow...Mr. Mayor? I think you have some, you’d like to address...Is there a motion to take the other item out of order?

Mr. Wiseman: So moved.

Mr. Yoshimoto: So that’ll be petition 2020-04, for the record?

Mr. Robinson: Right...so moved and seconded. All that’s in favor say Aye. Contrary minded. Ok we’ll take that out of order before we get to Statements from the Public.

**Motion and vote: Mr. Wiseman moved to take agenda out of order and hear Item 5b. Ms. Sumner-Mack seconded the motion. All members voted Aye.**

## 2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS (10:27 a.m.)

Mr. Robinson: Now we’re back to our agenda. Next item on the agenda was Statements from the public on agenda items. We only have one statement today. That’s from Mr. Jerome Warren. Mr. Warren? Please come forward and have a seat...and there’s a red button on there you wanna ensure that the microphone’s on.

Mr. Warren: I’m Jerome Warren. The sewer spill report is obviously false.

Mr. Robinson: Wait wait, you’re testifying in regard to –

Mr. Warren This would be –

Mr. Robinson: 2020-01, Okay. Go ahead.

Mr. Warren Yes sir. Okay now, it's obviously false. I saw a report previously and there are many discrepancies, and now I was just handed your letter here dated October 19<sup>th</sup> and I still see dubious statements on your map locations. And your letter here, there's dubious statements still. The false report is only one malfeasance among many others committed by the Department of Environmental Management, all leading up to this sewer spill. The Board of Ethics should initiate a full investigation into the entire Nā'ālehu Sewer Project. A forensic audit will reveal all of the money that has been misappropriated since 2007. 2007 was when the final plan was published. This final plan met the approval of us 160 homeowners. Ever since 2007 the Department has wasted time and siphoned off money. The money went to their cronies in the private sector. Consequently, people do not trust the County. It is too easy for County employees to cheat the government. This false report is just one occurrence in an overall pattern of corruption surrounding the Nā'ālehu sewer project. All these occurrences fall under the heading "Abuse of Power". In summary, please consider that the most powerful economic force in the world is the government's ability to tax its citizens. I'm gonna repeat that because I made it up. Please consider that the most powerful economic force in the world is the government's ability to tax its citizens. Abuse of power is the misappropriation of these public moneys. The Nā'ālehu Sewer spill and the ongoing boondoggle is a result of abuse of power. Now let me add, I just scribbled this down since I saw your letter here. Attachment C shows a false location of the blockage. The blockage was on my property. I suffered from that leaky line ever since I bought my house in 1997. And also, Alika's statements number 15 and 18 are dubious. So I'm here to answer any questions. I have testified (?) at the Department of Environmental Management only to be ridiculed and ignored. And I just hope that you and your Board of Ethics will take a more, you'll do something, or nobody else has. So, Mahalo.

Mr. Robinson: Wait wait, before you leave, so you've been on the phone call, several phone calls.

Mr. Warren Yes sir.

Mr. Robinson: Jerome Warren, that's like the disembodied voice that we've been hearing.

Mr. Warren Yes sir.

Mr. Robinson: And now you're here in person. That's good. Thank you for driving all the way here. Do any board members have any questions for Mr. Warren?

Ms. Sumner-Mack: Yes I noticed in reading the response from the Department, several references to calling in private contractors to do some of the repairs and that raised questions for me. Is that what you're talking about that instead of hiring adequate staff to do these repairs, that they are hiring, you know they're authorized to hire private contractors is that one of your issues?

Mr. Warren Its – not, when I say private contractors, I was on the scene when this spill happened. Just so happened I came back from an Environmental Management Commission meeting so I have, you can see I belonged to ILWU, I was an officer. So I'm fully versed in factory plumbing, I worked sugar, and prior to that I worked in an O-ring factory in Los Angeles and I've had the background and I realized when they did have these private people there was a necessity. In fact one of your crew, it's Alika's coworker, he worked with me at the plantation, I realized this was an emergency, they had to bring in B & E Pumping. They had to bring in these other people. But what I'm talking about on a bigger scope is when you pull the microscope back, look at the whole project. We are being billed by Brown and Caldwell for one, for a wastewater utopia, that we did not sign up for. That's what I mean by private contractors, so the money squandered, I think the money spent on this repair was necessary. However, pull the microscope back, look at the project as a whole and see all of these, this wastewater utopia that we did not sign up for as homeowners, and that the County is footing the bill for. That's when I go back to your consultants, Brown and Caldwell, and there's a whole laundry list of these people just feeding at the trough here.

Ms. Sumner-Mack: So when you talk about 'we are paying for it' you mean the County as a whole is paying for this. You, hundred and sixty homeowners are not paying directly.

Mr. Warren We are all tax payers and we – so the County as a whole, this is all coming out of the County budget, so we as tax payers – it's not only the money it's the time. All of these contractors have just, keep adding on things and extending deadlines etcetera, etcetera. So there's cost, money and time and trust in government.

Ms. Sumner-Mack: So is it your position that this, this particular petition, may have been filed – because reading the response, I felt like saying well

why didn't this petitioner go to the office and call up and complain and talk to the people then? But...and find out some of the information that came out in the report, I mean I learned a lot about plumbing from it, I was very impressed. But there was an implication earlier made by someone somewhere along the line, handling this, that someone was delaying, deliberately delaying actually making the improvement that was apparently okayed in 2007 in order to get the contract eventually given to an individual company.

Mr. Warren

Go back to 2007 and go back to 1997 when I bought my house, there has always been a rotten sewer line on the east side of my property and that has never been repair and that is what finally filled up with dirt and roots or whatever and that is what caused this back up. The cause was not where your map on Exhibit C shows. It was not. It was on the side of my property. I had a swamp there, I ended up throwing banana stumps in there just to soak up the raw sewage. And then I had the smell that's next to my clothes line all those years and nobody did anything. And no matter how many times I went to Environmental Management Commission meetings, and you just saw Harry Kim sit here, he came to one of the meetings and I talked to him face to face about this, at public testimony, and that's when he took office almost four years ago. And he said nothing about the sewer project. All he talked about was the compost project. That's what I mean about being ignored. And that's just the politely ignored, I've been actually physically hurt by one of the commissioners. Harmed, physical. And that's not to –

Mr. Robinson:

What do you mean?

Mr. Warren

His name is Jeff Fear, he walked into the room and he stuck out his hand as if to shake my hand and he just kept squeezing it and scolding me in front of the other commissioners. That's physical assault. And also the other ridicule that I've received from the commissioners, it's horrible. So that, and I'm a veteran and we're supposed to make Saigon safe for democracy. I just wonder if Hilo isn't going towards, we're heading towards what Saigon is right now.

Mr. Robinson:

Saigon is pretty nice, I was just there a couple of years ago.

Mr. Warren

Well they've lost their liberty.

Mr. Robinson:

From what it was.

Mr. Warren Well I won't go into my duty and what I suffered from as a draftee. But they told us that we were suffering to make South East Asia safe for democracy. So when I come to Hilo, I go, what's the difference.

Mr. Robinson: Lot of American companies in Vietnam now. Anyone else have any questions for Mr. Warren?

Mr. Wiseman: Yes, I have one. This is David Wiseman. Mr. Warren, you mentioned several allegations of corruption and wrongdoing in government contract, etcetera. Have you ever reported this to the Attorney General's office, any other State investigative authority?

Mr. Warren I have been in close contact with the EPA, like I said I have a background in this sort of stuff, so when this came up, I was involved with the EPA in the very early 2000s and so, and actually the lady Shannon Fitzgerald, we kinda grew up, we know where we each grew up right behind the Santa Cruz mountains and so she and I kinda cobbled together the simple 2007 plan. And when this thing started going haywire I finally was and still am in contact with the EPA's enforcement division and so...

Mr. Wiseman: Is that the State EPA or the Federal?

Mr. Warren It would be the one in San Francisco, District 9 EPA. His name is Jelani Shareem and his boss is Roberto Rodrigues, so both, we've all had long conversations.

Mr. Wiseman: So it's the Federal EPA under the present administration...So I was curious on that. But the Attorney General's office they do have an investigative (?) for within the State contracts, etcetera.

Mr. Warren Well I didn't come here just to be shunted off to another department, I hope that – I'm just a citizen, I'm just a dude, I'm on food stamps. My social security check is that small. So then I'm hoping that somebody with authority will take the bull by the horns here. Cause I've done all I can as a citizen, everything possible.

Mr. Wiseman: And that's a key word, with authority. Whether we can do anything in our authority, statutory authority. But that's for a later time.

Mr. Warren I couldn't understand what you're saying..

Mr. Wiseman: I said when you mentioned authority the Board of Ethics we're limited by the parameters of the Statute creating the Board of Ethics and our mandates under it, it's whether or not we have the

authority to do anything. And I said that would be for a later time in discussion with our counsel.

Mr. Warren: You're still coming garbled sir and even if I could understand you I'm just hearing gobble-de-gook and double talk.

Mr. Robinson: We hear him just fine Mr. Warren.

Mr. Warren: I cannot hear.

Mr. Robinson: Anybody else have any questions for Mr. Warren?

Ms. Sumner-Mack: Have you, I know you have tried other avenues, what other departments or organizations have you complained to? I mean the EPA is one, you haven't gone to the AG yet? Is that right

Mr. Warren: I'm just a dude, I don't even have a computer and if I had one I wouldn't know how to use it. But I have called every number in my phonebook and I have letters from Tulsi Gabbard and everybody else, telling me to call somebody else. That's why I am here.

Ms. Sumner-Mack: Well maybe, I mean we're a sympathetic ear and I think calling, contacting the Attorney General's office might be, just call –

Mr. Warren: I might have tried that, and I think, like I said I went to college on the GI bill, I worked as a Library Clerk for six years and I did everything a person with library knowledge, I did reference work, for citizens coming into the library, so I have the skills but all I run into are bureaucratic quagmires. So when you say did I do this or – I probably did and then all to no avail. So this is a last hope for me.

Mr. Robinson: Okay. Anyone else have any questions for Mr. Warren? I have a few Mr. Warren before we let you go. You said you're a member of the ILWU?

Mr. Warren: Yes sir. And this is --

Mr. Robinson: And you worked at a Sugar Company correct?

Mr. Warren: Yes and actually the ILWU and Harry Kim, Harry Kim told us homeowners that the ILWU would help us get through this bureaucratic quagmire and so I have recontacted them...

Mr. Robinson: Okay I'm not asking that. So in working for a sugar company. When the sugar companies were active they were like little counties under themselves. They had their own water systems, they

made their own roads, they created their housing, they created their own sewer systems. My question is was this sewer system created by a sugar company and then dedicated to the County at a later time or was it constructed by the County initially, do you know?

Mr. Warren: Well of course it was, these houses were built, they're just as old as I am, so then ---

Mr. Robinson: Right, so they were built by Brewer.

Mr. Warren: Hutchinson Sugar.

Mr. Robinson: Hutchinson ok. So when Hutchinson built that, it built the sewer system as well.

Mr. Warren: Yes sir.

Mr. Robinson: Okay, that was just question. And then the County assumed that like it did a lot of the water systems and other things. They were built as part of employee housing for sugar. Correct?

Mr. Warren: Yes sir.

Mr. Robinson: Okay. That was it. I just wanted to know that.

Mr. Warren: It's all in the background, anybody whose, if anybody would research this boondoggle, all of that, it's all on paper, it's all in the reports. All I'm asking is for someone to dig into it.

Mr. Robinson: Okay. So in 2007 this was approved and then for 13 years it hasn't been built. Is that correct?

Mr. Warren: In 2007 we rec -, there's a, a report came out, SSFM, a contractor, put together the report that corresponded with what the homeowners voted for in 2004. And that was to put new sewer lines in the street and then connect our houses to those sewer lines. Now we have laterals leading from our house to the street. Those laterals are capped at both ends and had the 2007 plan been carried forward, we would have new sewer lines in the street. Those laterals would be connected and the sewer spill would never have occurred.

Mr. Robinson: Right. And so the sewer goes into a gang cesspool is that correct?

Mr. Warren: Yes sir.

Mr. Robinson: Okay thanks. I don't have any further questions. Does anyone else?...Thank you for your time. Thank you.

**3. APPROVAL OF THE REGULAR SESSION MINUTES OF SEPTEMBER 9, 2020 AND OCTOBER 14, 2020. (10:47)**

Mr. Robinson: Okay. Has anyone had a chance to approve the regular session minutes of September 9 and October 14?...Is there a motion to approve? Wait I think the last time you had noted a few items.

Mr. Heintz: Question, just a correction on page 20 of the regular minutes of October 14, top of the page, the minutes reflect that Mr. Wiseman, there's an exchange, that is actually, should be me and not Mr. Wiseman. I don't wanna have these words put in his mouth. So that should be Heintz rather than Wiseman. That's the case throughout that conversation, thank you.

Mr. Wiseman: One comment I have, I didn't get the package in time. I got the minutes on my email and stuff but I don't have them in front of me. I don't print them out. Usually I get the package a day or two before the meeting but I didn't get it yet. It's probably in the mail.

Mr. Robinson: Neither did I David. But I reviewed it online.

Mr. Wiseman: Yeah so did it, so did I, I'm okay with it.

Mr. Robinson: Okay. So all that's in favor say Aye. Contrary minded.

**Motion and vote: Mr. Heintz moved approve the minutes. Ms. Sumner-Mack seconded the motion. All members voted Aye.**

**4. NEW BUSINESS (10:48 a.m.)**

There is no new business.

**5. UNFINISHED BUSINESS (10:48 a.m.)**

- 10:48 am a. Petition 2020-01 (Combined with 2020-05): Continued review of petitions alleging that a County officer or employee is in violation of Sections 2-83 (Fair Treatment) and 2-84(a) (Conflict of Interest) of the Hawai'i County Code.**

Mr. Robinson: The first item on agenda is petition 2020-01 which is has been combined with 2020-05. We'll note that Gary Murai from Maui is representing the County on this. The County has a conflict. And so J. Yoshimoto will leave and then we'll turn it over to Mr. Murai.

This is the continued review of the petition alleging that a County officer or employee in violation of Sections 2-83 (Fair Treatment) and 2-84(a) (Conflict of Interest) of the Hawai'i County Code for 01. And then for 05, it is combined with 01, and it's an initial review of a petition alleging that three County officers or employees are in violation of Section 2-83 (Fair Treatment) and 2-84(a) (Conflict of Interest) of the Hawai'i County Code. So at this point, Mr. Murai would you have anything you'd like to say before we start?

- Mr. Murai: Yes, thank you Mr. Chair. Deputy Corporation Counsel Gary Murai, I'm acting as Special Counsel for the Board of Ethics and this is, I just wanna remind folks and re-orient us here. This is consolidated, these are two consolidated petitions. We are still at the initial review hearing stage. What's unique is that it's 2020-01 was filed in February, by now we've developed a fairly extensive record, I do note that all of the respondent County employees have filed responses and the petitioner Ms. Demoruelle has submitted a significant amount of information and provided public testimony. And so the Board's charge at this point is it can either set this matter for an informal hearing on an advisory opinion, it can dismiss the matter if it feels it does not meet the criteria for a hearing, or it can render an informal hearing on its own if the board feels it has sufficient information upon which to make a decision. So folks, that's where we are, I also do wanna remind folks that at our last meeting we had, there was a request by the respondents for a closed hearing and that request was denied so, all of the matters will be considered in open hearing. That's about all I have Mr. Chair if the Board members have any specific questions about proceeding matters I'll be glad to entertain them, otherwise I believe we're ready to continue on the Board's informal, I'm sorry initial review, and decision as to what it wants to do.
- Mr. Robinson: Okay. So with that I will take these two matters and ask any Board members if they have any points that they would like to make in regards to these before we take action?
- Mr. Heintz: Mr. Chairman, have we ever received anything from the Department of Health about this bill?
- Mr. Robinson: I have not received anything, Mr. Murai have you seen anything from the Department of Health?
- Mr. Murai: I have not, not directly from the Department of Health. Although I believe Ms. Demoruelle has ongoing matters or communication with them and as I recall from a few hearings, few meetings ago, Board member Sumner-Mack had requested that if Ms.

Demoruelle had any information that she should forward it to the Board.

Mr. Robinson: Is Ms. Demoruelle on the phone?

Mr. Heintz: She's here.

Mr. Robinson: Oh there you are, would you come up and have a seat please? Never seen you in person always just heard the disembodied voice so it's nice to finally meet you...Is the red button on?

Ms. Demoruelle: I believe so, yes sir.

Mr. Robinson: Okay good, we can hear you. Ok, the question is, have you heard anything from the Department of Health?

Ms. Demoruelle: No sir...because, actually when I was reviewing your rules, I think you're supposed to actually like subpoena them, I don't think just me asking informally for this is actually the official way to received information from them.

Mr. Robinson: Well subpoena them the official way is if we decide to go forward with a hearing, now we're in a collegial discussion to ask you if you heard anything from –

Ms. Demoruelle: The only thing I have is from the response from Mr. Kucharski to them on that.

Mr. Robinson: Okay.

Ms. Demoruelle: Which he indicated that they do not have a way of measuring at this point in time. They haven't developed a way that would have a verifiable way of measuring the volume of spills. That was from Mr. Kucharski to the Department of Health.

Mr. Robinson: Okay. Alright. So do you have anything you'd like to add to our discussion today?

Ms. Demoruelle: Well, what I brought with me today, who I brough with me, because it's a good point that I am just second hand information as to the actual spill that occurred, I showed up the morning after and could see the results of it but I didn't see the actual flow that was seen by Jerry. But I did see, I did see the B & B Pumping truck. My daughter-in-law Tina Tuttle called B & B Pumping and has factual firsthand information that she can provide about them being there. They were on site, that was never included in the DeMello statement about the B & B Pumping. You could see it there in the

pictures, you could see the B & B Pumping trucks sitting there in the one picture that does not have anybody in it. It's just, you can see the B & B Pumping truck sitting there. There's several other things in the statements that really do not ring true for example, using a leaky, somebody's leaky hose, various hose, there's no evidence there of any hose being used. We were on site, there's not hose available. Let me see, there were several other things that showed up that just did not add up. And I don't think you have to have a whole lot of misinformation, false statements to achieve perjury. I think just one false statement's enough. I thought it was interesting too what when you're asking about what else we've done, Jerry has not done a lot, but I have, I have pursued it with the Department of Health. I have written to the Attorney General. I have done other things as well and we right now, I don't know what's happening because I don't have access to the court records but at any second we could have a decision by Judge Kobayashi to stop this whole project. So, this, the reason I come to you folks –

Mr. Robinson: So you're saying Judge Kobayashi the federal judge.

Ms. Demoruelle: Yes.

Mr. Robinson: Okay.

Ms. Demoruelle: That would be for preliminary injunction to stop all work on the, well as Jerry says, on those projects that have been not handled properly. But the reason I've come to you folks is because you can give individual guidance to this department, you can provide individual guidance to employees to set them on the path of telling the truth and in fact that's why EMC's not appropriate. They are policy people, they're, would be concerned with setting up a policy that would establish how you define flow volumes because that is not defined right now. They're able to just go out and say "Oh there's so many gallons afloat here" and report it as that but there's nothing that the Department of Health or any of us as people in the community can verify. There's no verifiable way of knowing how many gallons were spilled. So I'm coming to you folks because you can provide independent, guidance to individuals within the County which nobody else basically has that authority. So that's why I've come to you folks on this particular point.

Mr. Robinson: We understand, and that is what the charge is to the Board of Ethics is truth in government and verifiable is exactly the word, and I've read this information and I've looked at the pictures and I've tried to understand it as best I could and I've read the responses from Environmental Management and really what it comes down to Ms. Demoruelle for me, I don't know of any other

Board members feel this way but I'm just sharing my thoughts, is that Mr. Kucharski reported that there was a certain amount of gallonage of spill that occurred, and you're saying, I shouldn't say you, but your group is saying that no that's not correct and it was actually more than that and there is a 13 year period when this project was, you know, we keep hearing that was approved and then well it never got built, I can understand that. But it really comes down to the verifiable amount and I don't know how the Board of Ethics would ever be able to verify, that's why we were hoping –

Ms. Demoruelle: Well you could look at whether –

Mr. Robinson: Let me finish please, I always give you the latitude to do that as well. We always have waited for the Department of Healthy but if you're not getting a response from the Department of Health then maybe the best thing for the Board to do, the Board of Ethics, is to write a the Department of Health and say we need your guidance in this and is there a way that you can verify what the actual amount of the spill is. If we have verifiable proof then we can you know, render a decision, if we don't have verifiable proof we'll just continue to get a greater pile of material and we don't really be able to get to the truth. So I don't know if any of the other Board members, have, feel differently or see this differently than I do, and I would welcome any input.

Mr. Wiseman: I have a question or concern, ma'am can you hear me ok?

Ms. Demoruelle: Yes sir, I can.

Mr. Wiseman: Yes this is David Wiseman. Ok there's no question there is a dispute as to the amount of the spill, the gallonage of the spill. However, this is significant as I understand it in requiring the government to do something if it's under a certain amount they don't have to and if it's over they do. Is that sort of in general where we're going with this?

Ms. Demoruelle: Well my argument is, regardless of the amount, it was not handled according to the rules, regardless of the amount.

Mr. Wiseman: Okay...

Mr. Robinson: I think this question was, is there threshold as to the amount of sewer spill that may have occurred that would not just, that would demand that the government do something. Is there a threshold or volume around or certain, you know if it's like 100 gallons they

have to take immediate action but if it's 75 gallons then they can you know deal with it...?

Ms. Sumner-Mack: Isn't it a thousand gallons?

Ms. Demoruelle: Well there's different levels of posting and different requirements at different levels. But there has to be a response to any spill. Especially if it's out in the open like this was. Like, Jerry, as you just talked with him, and he's here again, that you can bring him back up. Jerry saw the flow actually flowing across driveways. There's any argument that it didn't flow across the driveways. It actually did. My husband, who took pictures the next morning actually saw where it went it, you could see the residual of it, where it went in to the channel right there. So you have people right here today you could get firsthand knowledge about what's, hap - what actually happened.

Mr. Robinson: We've had that, we've seen the pictures, we've heard you know, you folks have been very clear about that all along. And so, we understand that very clearly, and so I guess at this point we're just trying to figure out if there's reason for us to conduct a hearing and I guess the most important thing would be, I would think, for us as a Board of Ethics to write to the Department of Health and ask for their guidance since they're, in essence, the deciding factor at the State level, in regards to sewage treatments, sewage spills, you know, what the containment efforts are, what the requirements are and ask for their guidance because now we just have the reference from Environmental Management of what their responses have been and we also have from them that, you know, they question whether or not we have any authority to take action regarding a sewer spill. Which may be correct, I don't know. But the question is –

Ms. Demoruelle: Well the action is not on the sewer spill, it's on the –

Mr. Robinson: Let me finish please. But in order to make a determinant, we need more input from the Department of Health, so...If the Board would make that as a motion.

Mr. Wiseman: Mr. Chairman I'd like to...I'd like to develop that, I'd like to develop some content, perhaps in that motion, because to me, regardless of the amount of spill or the department's obligation to do something, I mean, we do live in a civilized society where sanitation and you know sewage treatment is, I mean it's a mandate, it's at the core of our civilized society here. So I'd like to know why do they not believe that? Does the department not believe that there's something to correct here? Or that it's an okay

situation that's, and perhaps this can be a queried in the, if we address the Health Department.

Mr. Robinson: Okay, thank you Mr. Wiseman.

Mr. Wiseman: I would also add that I believe in, I don't know for fact, perhaps Mr. Murai can enlighten us at a later time on this but, in several constitutions have a constitutional right to, sanitary, clean, public health, environment you know, so I just add that in.

Ms. Sumner-Mack: I'd like to follow up on your comment about a judge making a decision, I may have missed something in these documents but exactly what point are you in this legal process.

Ms. Demoruelle: Well the legal process is I challenged the adequacy of the Environmental Assessment on the Pāhala project, it had been separated from Naalehu and was being handled separately. I challenged the basis of the separation, I challenged whether there should be an EIS done, that there should've been an EIS done, and the judge took it under advisement several months ago. I have never waited this long for a decision in my life. I'm usually dismissed rather rapidly. So, and you can imagine as a Pro Se, so sitting and waiting for now more than six weeks for a decision from Judge Kobayashi on whether this will even move forward is what we're all awaiting right now. And I expect a very reasoned and very thorough decision from Judge Kobayashi.

Mr. Wiseman: But this is not connected with the sewage spill is it?

Mr. Robinson: No it would be connected with the EIS that was prepared originally, where the two systems were joined together and then they were split apart, yeah ok.

Ms. Demoruelle: Exactly, yes sir.

Mr. Robinson: But getting back to my initial item, was that we as a board write to the Department of Health and ask for their guidance in this regard I think. So if that would be a motion to the Board...

Mr. Heintz: Yeah I make that motion.

Ms. Sumner-Mack: Second.

Ms. Nakanishi: I have a question.

Mr. Robinson: Okay before we get to that Denise...So we had a motion and a second that the Ethics Board write to the Department of Health and

ask them for guidance in regards to this, so that we can make an informed decision as to whether to go forward with an investigation or not...Okay now we're opening it up for discussion. Go ahead Denise.

- Ms. Nakanishi: So I had to step away so I hope didn't miss something but you know we had this September 9<sup>th</sup>, notice of violation letter from the Department of Health. Was there a response to that somewhere? It was going back to...Mr. Kucharski. Do we have a response to that letter anywhere?
- Ms. Demoruelle: There was one yes sir.
- Mr. Robinson: September 9<sup>th</sup>, notice of violation letter. It was followed by an October 9<sup>th</sup> from Mr. Kucharski who can probably fill out that a lot more than I could.
- Ms. Nakanishi: We get it so piece mail I don't see the October 9<sup>th</sup> but I'll go look for it.
- Mr. Robinson: We are getting so much paper work.
- Ms. Demoruelle: I did not provide you the whole letter, I provided you one page of it, in which is said they did not have a way of determining the volume. That was to me, the most important thing, in this case.
- Ms. Nakanishi: Okay, thank you.
- Mr. Wiseman: Mr. Chairman I have one point. With respect to the motion, to ask the Department of Health for guidance I would like that to be that the letter be in general form. Aside from guidance we wanna state our concerns and our positions, not so much positions, but our concerns about the ongoing complaints that we have about this horrid, what appears to be a horrid, unsanitary situation.
- Mr. Robinson: Correct.
- Mr. Wiseman: I would like to have in general, some language to that effect in the motion.
- Mr. Robinson: Correct, I understand Mr. Wiseman.
- Mr. Murai: Mr. Chair.
- Mr. Robinson: Please Mr. Murai.

Mr. Murai: Just so that I'm clear on what the Board is doing. I understand that there's a motion on the floor right now, to request additional information from the Department of Health. Board member Wiseman has also asked that it be broader to include other concerns. My question is this, is the Board contemplating conducting its own investigation?

Mr. Robinson: You know there's the physical aspects of the investigation, which this Board is really not qualified to do, and then there's the investigation that would occur as regards to responses that have been received and whether or not they've been truthful or verifiable. And so, we're looking to the Department of Health for the physical part as well as you know, concern regarding the general overall sanitary conditions that exist in the area.

Mr. Murai: Okay. Alright, that's fine. I guess I'm tryna wrap my head around is, this is an initial review so if the Board is going to be formally requesting information from other agencies, I'm just wondering whether, what the Board has in mind is conduction its own investigation, and if that's the case I would recommend that the Board decide. Well first, before you start sending out letters requesting information, the Board should decide whether this is going to be a matter upon which they can issue and opinion today, whether they're gonna set it for further hearing or you're gonna set an informal, hearing on an informal advisory opinion and conduct its own investigation. I don't know whether the Board is simply going to request this information as part of its initial review.

Mr. Robinson: Correct, initial review.

Mr. Wiseman: Gary, so how would it be, I understand where you're coming from, from putting the legal framework that you need to do, but how about if we took a position that we're gonna continue the initial review, pending some additional information.

Mr. Murai: That's fine, as I said earlier, I well, I defer to the Board what it wants to do, the Board is aware of its own rules. However I do want to, you know before we go any further I think what we neglected to do was make a record of who is appearing at this meeting, and I see on my screen that Ms. Beck is on, Mr. Takamura's on, remotely and I don't know whether Mr. DeMello is in the chambers.

Mr. Robinson: Mr. DeMello is here. Mr. Kucharski is here.

Mr. Murai: Okay and...

Mr. Robinson: Diane Noda is here. We have Ms. Demoruelle here. We have Mr. Warren here.

Ms. Demoruelle: You have Mr. Demoruelle and Tina Tuttle.

Mr. Robinson: We have Tina Tuttle here.

Mr. Murai: Well they're not parties...they're not parties, I just want..

Mr. Robinson: And we have Mr. Demoruelle here...and so those are the people that are here, so that's the note for the record of who's here.

Mr. Murai: Mr. Chair?

Mr. Robinson: Yes?

Mr. Murai: I just wanted to make a record of the parties.

Mr. Robinson: Right.

Mr. Murai: Not the audience.

Mr. Robinson: Okay, oh I see, I see.

Mr. Murai: So, and before, I suppose it's up to the respondents if they also want, if you wanna give them an opportunity to speak to the motion as well.

Mr. Robinson: Right I was gonna do that after we finish with this and dismiss Ms. Demoruelle. I was gonna ask Mr. Kucharski to come forward. Actually, actually, Gary before we have a vote on this, I'll ask Mr. Kucharski to come forward, we'll dismiss Ms. Demoruelle. Is that okay?

Mr. Murai: That's fine. You can go ahead and excuse her. But again, so, just so that I'm clear, this motion that's on the floor is still considered part of the Boards' initial review.

Mr. Robinson: Initial fact finding, correct.

Mr. Murai: Well if it's getting to fact finding...

Mr. Robinson: Okay it's not fact finding, we'll call it just trying to understand.

Mr. Murai: Because there has been nothing, there's been no evidence for lack of a better word – (inaudible) presented and subject to cross examination and that's –

Mr. Robinson: Although this has been our evidence today, all of this weighted material that I've carried back and forth to Hilo at least eight times now.

Mr. Murai: Well it's the record of the documents that have been submitted.

Mr. Robinson: Correct, correct, correct. Okay let's –

Mr. Murai: Okay, thank you Mr. Chair. I don't have anything further for now.

Mr. Robinson: Okay Mr. Murai, thank you for keeping us organized I appreciate that. Before we take a vote on this, let's dismiss Ms. Demoruelle and call Mr. Kucharski forward with anything he'd like to add or to take away from this.

Ms. Demoruelle: Thank you for this opportunity to talk.

Mr. Robinson: Oh you're wonderful, thank you for coming Ms. Demoruelle we appreciate it. Okay...be sure your button is on there to. Okay Mr. Kucharski, thank you for coming forward today and testifying in regards to this.

Mr. Kucharski: Yes, Bill Kucharski, Director of DEM. There a several issues that have been discussed –

Mr. Wiseman: Excuse me, what is –

Mr. Robinson: I'm sorry what?

Mr. Wiseman: Excuse me what is DEM?

Mr. Kucharski: Department of Environmental Management. I'm sorry.

Mr. Wiseman: Thank you.

Mr. Robinson: Okay.

Mr. Kucharski: And the Department of Environmental Management has responsibility for raw sewage treatment, collection, within the County system that's operated by the County, owned and operated by the County. We also have responsibility for solid waste but that is not a subject to this Board at this time. There were two issues that were raised before you, one was unfair treatment and the other was conflict of interest. Conflict of interest to me, is something that I consider very, very, very serious. The unfair treatment is also part of the ethics and I understand that. But I have heard nothing

on conflict of interest, what the basis of that is, other than a claim of some financial improper activity that I find morally repugnant and repulsive. There were discussions in here on Department of Health. Department of Health regulates the Department of Environmental Management, when it comes to sewage, wastewater and solid waste. They are who we report to. They have the responsibility to ensure that what we do in the County, in wastewater and solid waste complies with State statutes and state regulations. When it comes to dealing with spills, there are two levels, under a thousand, which is reported quarterly and over a thousand which is then reported, has to be within 30 days of the spill. There have been sort of statement that the County has not cleaned up small spills and that is absolutely incorrect. The people that were there at the site, were there to repair the breach in the lines and to clean up any of the wastewater that was released. That was done. And so to even intimate that because it was a small spill it was not treated or cleaned up is not correct. That is an absolute falsehood. And whether it's under a thousand or over a thousand, we follow the same kind of rules and clean up. We remove the waste water. We then treat it with disinfectant. We come in and we do all of the things that are required by the state and that are required by County code to maintain the safety of that neighborhood. The County did, was deeded the whole sewer system, the collection system in Nā'ālehu, and that was ceded I believe in 2010. The –

Mr. Robinson: The County wasn't deeded the system until 2010?

Mr. Kucharski: It's my understanding, yes. And the, all the large capacity cesspools were to have been close by 2005. And C. Brewer who was the operator of that facility did not close the large capacity cesspools but then further ceded those properties to the County and the County took responsibility. There was an initial study that was done for a means of collection and utilizing the same disposal location, that is where the large capacity cesspools are and to replace that direct discharge with a septic tank. A large capacity septic tank. There were technical issues after the initial review and it was deemed that this was a satisfactory environmental solution to the problem of the large capacity cesspools and studies began. The County has been working on that now for, a number of years, and I've been in this position for four years, this has been going on for 13 years. We have moved forward, we have the Federal EPA, has come in and given us an administrative order of consent, mandating that we close both Pāhala and Nā'ālehu collection systems and build a treatment facility. That is what we're in the process of doing. And this commenced, the AOC , Administrative Order of Consent was signed in 2017 I believe and the County

accepted those. We're operating under those federal mandates to design, construct and operate new facilities that are environmentally appropriate for both Pāhala and Nā'ālehu. And I am in here and I am scratching my head as to what unfair treatment means in a report of a spill. When the spill is cleaned and everything is done whether it's 200 or 800 or 2500 the spills are cleaned up, immediately upon notification as soon as we can get people out there, this is done. So to come in and sort of intimate that, that isn't done, is just false. That's a part of our job and that's what we do. And so, I'm just not certain what communication with Department of Health, which is a regulatory issue, it is not an ethical issue, it's a regulatory issue as to how and what we report. If we had gone into that spill and said we refuse to clean this up because this in Nā'ālehu, I should be sitting right here. You're absolutely correct. But that's not what happened. What happened is the spill was reported, we dispatched the crew, our superintendent slept in his car overnight to ensure that someone would always be there if something happened. And to come in and say well we've ignored Nā'ālehu because it's a small community, it deserves no more comment from me. And so, having now vented I will sit back and if there are any questions happy to respond.

- Mr. Robinson: Do any Board members have any questions for Mr. Kucharski.
- Mr. Wiseman: Yes, I'm a little confused. Is the spill complained of, has it been repaired, and is there any continuing spill?
- Mr. Kucharski: No sir, we've replaced the area that had been breached by roots, and we have gone and made that repair, that was one of the reasons we had the vacuum truck there to remove any additional material, and that leak has been totally repaired.
- Mr. Wiseman: I see. Thank you.
- Ms. Sumner-Mack: May I ask a question about this judge's ruling. Is that holding up any progress toward fixing the problems there or is that just –
- Mr. Kucharski: No ma'am that's totally, that has to do with whether the environmental rules were followed. When you do an environmental assessment, that is to determine whether an environmental impact statement is required. Our review determined that an EIS was not required because the standards that you have to meet to move to an EIS are defined and we did not meet any of those criteria in the opinion of the department and for Pāhala in the opinion of the EPA because there were two, a Federal and a County, EA done and we combined them but they were both done jurisdictionally. And the question is whether the

determination that an environmental assessment was adequate is the issue as I understand it, before the court and it has nothing to do with our clean up. We'll be cleaning up spills wherever they are in our systems as long as they occur.

Ms. Sumner-Mack: But is there a long term effort being done to clear up all the problems proactively?

Mr. Kucharski: That's what the EA is for, we need to do an EA before we can install the new lines, the new collection system. The County, normally when you're in a piece of property, when a line is on your property, private property, that is something that you are required to take care of yourself. It is only when, if the full collection system is clogged, and that is causing a backup into your lateral, that the County is supposed to deal with it. That's where are our responsibility is. Nā'ālehu and Pāhala is a little bit different and we go the extra mile and if there are blockages in the laterals we try and help and get those cleaned out.

Mr. Robinson: Anything else? I have two questions. These are all gravity flows; these aren't force mains right?

Mr. Kucharski: Yes sir, they're all gravity.

Mr. Robinson: All gravity. Second thing, I've worked on EAs and EIS's before, and I'm familiar with EA's and the submission to OEQC and you now, declaration, but I'm not familiar with Federal, so if you combine a Federal EA with a State EA, is the OEQC the determining body for the Federal EA as far as to whether or not you need to go to the full EIS.

Mr. Kucharski: That's done on the federal, and forgive me if, I know that we did a joint EA.

Mr. Robinson: Right.

Mr. Kucharski: And we had a Federal side because they were funding Pāhala, and so with those funds we had to do more than just cross cutter. We had so they had their own review of the EA, and we had our own, and we had, our questions were, all of the questions that came in were responded Federally and by the County.

Mr. Robinson: Okay.

Mr. Kucharski: And there has been, EPA did not have an issue with saying the EA was adequate, nor did OEQC.

Mr. Robinson: Yeah cause the OEQC just collects all the responses and then puts em in and makes a determination.

Mr. Kucharski: Yes sir, and there's 30 day, 90 day, well an EIS it's 90, 30 days on an EA if you don't agree with the determination that you're required to file in the State courts.

Mr. Robinson: It's laborious.

Mr. Kucharski: Yes sir.

Mr. Robinson: Okay, those are the only two items. So you think that our letter to the Department of Health asking for guidance may bear no fruit, but we'll take a vote on that at the Board level, and if we go ahead, just, you'll be aware of it.

Mr. Kucharski: Again my issue is a very basic one. On a regulatory matter, the regulator will manage the regulatory requirements. I'm just confused as to where and ethics claim comes in to a regulatory matter that has an oversight by state regulatory agency over our operations, how that switches into an ethical concern. That's my confusion, I just don't understand that nexus.

Mr. Robinson: Well from us it's pretty clear that it's just a question of reporting and whether or not the amount of spill that was reported really is the amount of spill that occurred. And so that's, you know, really what I've gotten from this voluminous material that we've received so we'll just go from there.

Mr. Kucharski: Yeah, and I understand that, and for us it's over or below a thousand which is a different report. The report was done, if DOH felt that, that was improper, then they come in and proceed on a regulatory matter saying that we did not respond properly according to the HAR.

Mr. Robinson: Correct. Okay, thank you. Anyone else have any questions further from Mr. Kucharski?...Okay if not, thank you very much for your time. And at this point are there any further items regarding the motion before the board? If not, all those in favor – Please Mr. Wiseman go ahead.

Mr. Wiseman: Yeah in view of what the former witness testified, I'm not in favor of that, I think this'll be a roundabout way, and I mean he explained that it's his department that's in charge of all the sewage, and their regulatory agency not the Health Department. So, I don't see any, I think it'd be superfluous to write to the Department of Health.

Mr. Robinson: Okay well...

Ms. Sumner-Mack: I'd like to suggest that we here from the other witnesses that are here to just briefly if they have anything to add. I mean, several of the, those who wrote, wrote responses and reports are here, aren't they?

Mr. Robinson: Well we heard from DEM and those three people. We heard from Ms. Demoruelle who seems to be speaking for everyone else in her group, I don't know what individual folks beyond that we could hear from?

Ms. Sumner-Mack: Okay I just thought they might have something else they wanna say in their defense, but um...

Mr. Robinson: Would you like to speak?

Mr. Heintz: Mr... Yeah...

Mr. Robinson: Okay okay, come forward.

Ms. Sumner-Mack: Just ask them if they have anything to add or clarify.

Mr. Robinson: Okay, just trying to move forward... Yeah clarify. And your name please?

Mr. DeMello: Alika DeMello. County of Hawai'i wastewater Superintendent.

Mr. Robinson: Okay, great.

Mr. DeMello: So I guess to clarify, one of the things is the, when they were talking about B & B, being you know, present, as you can see from the picture and the statement, that actually wasn't B&B, that was actually our truck that was there. You know, there's a lot of, what is it, I guess they're very unclear on a lot of facts. You know what I mean? There's a lot of things that's unclear. What else was there... They told that my statements 15 through 18 was incorrect. And it is correct, I mean it's actually factual what happened, I was there from the incident when it happened at, when I got out there around 4 'o'clock, and I didn't leave, although, you know, per the County I could've left. I could've took my time off and rest, you know, I didn't, you know, I stayed there because ethically I'm responsible for this. I'm responsible to clean up and approximation of flow, you know, and what's got out. I'm a licensed operator, before I was superintendent, licensed operator. We have a code of ethics and its public health and safety first and foremost, public

health and safety. So I take this very seriously. I mean, you know, I'm sure you guys are aware of that but my statement is factual. I questioned my guys, to ensure that, this is, it wasn't like how I'm dreaming it up, this is back, almost a year ago, now this has been a while ago. However I do make a report, not report, but notes on what's happened throughout the day and what not, so I use that to reference all of these statements that I gave you. In reality there's only two houses connected to this sign. Using google maps, if you go just google search, you'll see houses and you'll see kind of like you know, oh, these houses are above this house and there's a line that goes here so you automatically assume that all of these houses go down to this line. In reality it's not true, we have a collection system. It's like a tree, with leaves and branches, and such right? So the affected area is only two houses. Two houses on that affected area, Mr. Warren said that in reality one of my statements was false because there was the blockage in back of his house, there was a swamp in back of his house, and all this type of stuff. That wasn't this incident. There was a blockage above Jerry's house, nothing to do with Jerry's issue. And we got there, we cleared the blockage and we repair the pipe. However, later because I'm very diligent in my job, I don't just focus, I don't have tunnel vision, I walk around. Mr. Warren talked to me for a long time, telling me the whole history of what's happened at the place. So, I investigated, I told my crew okay, let's go out. I've been with the County for over five years now, you know we've been doing this for, 2010, before I, I mean, I don't know the system intimately. So I went to go and know it intimately, we found, I found, as well as my crews, with CC TV-ing, and such, a camera, closed-circuit television, you know, pipes. We found other issues un-related to that first issue that we came out, but there was other issues. One of them there was a break to open, like there was a pipe that was broken and the residents went and just put some rocks over it and they just left it alone. The bottom half of the pipe was still intact, and sewage flowed through, we repaired that. It was working fine, but it was broken, so we repaired it. In back of Jerry's house we actually hired a contractor and put in brand new pipe, we just dug everything all out, put in brand new pipe, because we did get it cleared, there was a little bit of blockage, it wasn't completely a stoppage but there was a lot of blockage in back of Jerry's house. Best thing to do, put brand new pipe. We went in there, put brand new pipe. Throughout Nā'ālehu and Pāhala, at that one, this one particular incident, we hired a contractor. A lot of other times, my crews go out there and replace lots of pipe. We find, one section that's bad. We go in and we do a whole run, so, and again I'm just, I can go on and on and I'm not trying to. All I'm saying is, what I'm giving you here, in my testimony, it's factual. Maybe everybody doesn't have all the facts, you know, or what's

happened, but I was there, I didn't go home when I could've. So that was it. Any other questions?

Mr. Robinson: Any questions?...Okay, thank you for your time. Okay you wanna speak Mr. Warren is that what you're saying? Oh Ms. Tuttle, would you like to speak as well? I really didn't wanna get into the he said, she said but please come on up...Please, Ms. Demoruelle, please. Just tell her come on up and you can speak and then we would like to take a vote on this matter so we can move forward to other items on the agenda. Please state your name for the record. I'm sorry what as your name?

Ms. Tuttle: Tina Tuttle.

Mr. Robinson: Tina Tuttle. Okay Tina.

Ms. Tuttle: I just wanted to say that I'm confused cause I don't know who I spoke to on the phone then, cause they said they were B&B Pumping and that had they come out to Nā'ālehu, and so I'm just confused now with what I'm hearing. Cause I got some information on the phone that they were there and they had to, they didn't specify really the amount of gallons of sewage but they did say that they were there cleaning up on a specific date and that's pretty much I know as far as that goes, they did just verify with me that they were there. But he's saying he was there, so now I'm just at a loss. Thank you.

Mr. Robinson: Okay, thank you. Appreciate it...

Mr. DeMello: Sorry I know didn't want to get into the back and forth but my statement #21, B&B Pumping Services was unrelated to the initial (inaudible) iron pipe of January (inaudible)...

Mr. Robinson: Okay.

Mr. DeMello: I'm not saying that they weren't there, I'm saying...(inaudible)

Mr. Robinson: Okay, anyway let's stop this now. So we have a motion before the board. Motion is to write a letter, Department of Health, ask for their assistance and guidance. Any further discussion among the Board members? If not, all those in favor please say Aye...All those opposed?...

Mr. Heintz: Opposed.

Mr. Robinson: Mr. Wiseman? Yay or Nay?...

Mr. Wiseman: Nay.

Mr. Robinson: Ms. Nakanishi?

Ms. Nakanishi: Nay.

**Motion and vote: Motion to write to the Department of Health did not carry. Four members voted Nay.**

Mr. Robinson: Okay we have four Nays; the motion does not carry. At this point we will not write a letter to the Department of Health. I don't know what to do with the petition 2020-01 and 2020-05.

Mr. Murai: Mr. Chair?

Mr. Robinson: Yes Mr. Murai.

Mr. Murai: At this point I would suggest that one thing you could do is ask for a motion, well Mr. Chair, you could make a recommendation to the board as to what the Board's next step would be. Or you could solicit a motion from the Board as to whether to set this matter for an informal review hearing, I'm sorry, yeah, hearing on an informal advisory opinion, set this matter for further investigation, render an opinion based on the information you have, or which could include a dismissal of the petition, if the Board feels that this is either there is no violation or this is not a matter that falls within the Board's authority or jurisdiction. So there's, that would be your range of options Mr. Chair.

Mr. Wiseman: Mr. Chairman, I'd like to, if it's appropriate I'd like to have a discussion in executive session on this issue.

Mr. Robinson: Okay before we go to executive session though, I just would like for us to, actually, have a discussion with Mr. Murai in executive session.

Mr. Wiseman: Yes, on deciding on one of those options he gave us.

Mr. Robinson: Okay, is there a motion for executive session? Is that what you were saying Mr. Wiseman? You'd like to make a motion for executive session to confer with our counsel regarding our next actions on these two items?

Mr. Wiseman: Yes if we wanna do it now, or defer it...

Mr. Robinson: Is there a second to that motion? Okay it's been moved and seconded that we go into executive session to confer with counsel,

Mr. Murai regarding the Board's next, the Board's action on these two petitions 2020-01 and 2020-05. Any further discussion? If not all that's –

Mr. Murai: Mr. Chair if I may –

Mr. Robinson: Oh, go ahead.

Mr. Murai: Just for the sake of clarity, Judge Wiseman's motion to go into executive session so that the Board may discuss with its counsel, the Board's (inaudible) powers (inaudible) and so forth, we will not be doing any kind of deliberation or anything like that.

Mr. Robinson: Right, we're clear about that. Right. Deliberation will be in public but the advice of Counsel will be in the executive session.

Mr. Murai: Okay.

Mr. Robinson: Okay. All that's in favor say Aye. Contrary minded, okay. We will adjourn the regular session and then go into executive session. And then we will come back and deliberate in public, so please excuse us while we do this.

Mr. Murai: And Mr. Chair I see that Ms. Beck and Mr. Takamura are still on. so we'll have to ask them to sign off.

Mr. Robinson: Correct. We'll have our IT Director take care of that.

Mr. Murai: Okay, thank you.

Mr. Robinson: Okay.

**Motion and vote: Mr. Wiseman made a motion to move to executive session. Ms. Sumner-Mack seconded. All members voted Aye.**

***11:42 The Board moved to Executive Session***

\* \* \* \*

***12:01 The Board returned from Recess after adjourning the Executive Session.***

Mr. Robinson: So we'll go back to regular session...and at this point we had a chance to confer with Mr. Murai, our Counsel regarding this and is there anything anyone would like to say in regards to petition 2020-01 and 2020-05 before we ask for a motion before the Board? I think we've heard from both sides in this regard and read

all of the documentation that's been presented. So if...the Chair would entertain a motion in regards to both of these petitions.

Mr. Wiseman: I'd like to make a motion for an advisory opinion. But I need some discussion on this because it's more of a message than an opinion.

Mr. Robinson: Okay, then the discussion would be in regards to whether or not we've received sufficient information to determine that there needs to be a decision regarding both of these matters? Or if from my review of the material presented to date, whether or not there is, either of these, would justify going ahead with an investigation in order to issue an advisory decision...is that correct Mr. Murai?

Mr. Murai: Yes, Mr. Chair that's correct.

Mr. Robinson: Okay.

Mr. Wiseman: In lieu of that I make a motion to concur with having received enough information to make a decision.

Mr. Heintz: I couldn't understand him.

Mr. Robinson: You were breaking up there, Mr. Wiseman. Could you repeat that please?

Mr. Wiseman: I would make a motion to have us concur that we received enough information in this matter to make a decision.

Mr. Robinson: That we have received enough or have not received enough?

Mr. Wiseman: Can you hear me okay?

Mr. Robinson: Yeah it was kind of breaking up there –

Mr. Wiseman: We have, we have. You're breaking up to, to me. I had to move my – let me, is this any better, can you hear me now?

Mr. Robinson: Yeah a little bit. It's much better now. Yes.

Mr. Wiseman: Okay so my motion is just, a motion to have the members concur that we received enough information in this matter to make a decision.

Mr. Robinson: Okay so the motion is that we have received enough information in this matter to make a decision. And maybe we can add to that, that the decision would be...

Ms. Sumner-Mack: Well, if I may be so bold, we don't see the main issues to be within our purview, according to what we can make decisions on and that while we commend those who've come and thank them but, it's just not within our purview, that – so we don't wanna pursue it more. We...

Mr. Wiseman: Yeah well that would be, that would be our decision. But well the motion I'm making is that we received enough information and materials and testimonies in this matter to go forward and make a decision...whether it's in our purview or not, that would be part of the decision.

Mr. Heintz: Since we're in the area of discussion, my review of the information is such that I find no basis upon which I can determine that the employees of the County have treated the people, the petitioners unfairly. In order to do that, I would have to establish that the their sworn affidavits of the size of the spill was false and was intentionally false. And therefore these people have been treated unfairly, I'm unable to do that. There's nothing that's established that these people have reported falsely. They have sworn, and there's at least three or four of them, and I don't find anything in the petition that establishes otherwise. And I'm not competent to determine the size of the spill. We're told that the Department of Health has no way to do that at this point and so I've, at this point, feel that this petition should be dismissed.

Mr. Robinson: So that would be your motion to the Board?

Mr. Heintz: Yes it would.

Mr. Robinson: Okay. Is there a second?

Mr. Wiseman: Mr. Chairman, I'm, yeah I would concur with that. Except that I thought I we were just proceeding to first step to determine that we have enough information to make such a decision.

Mr. Robinson: Right, and I think that was Mr. Heintz motion was that we have had enough decision, we reviewed it, and that's his recommendation.

Mr. Wiseman: Okay.

Mr. Robinson: And so I'm assuming that you're seconding that, Mr. Wiseman –

Mr. Wiseman: Yes, I would second Mr. Heintz...

- Mr. Robinson: Okay is there any further discussion by anyone else? Ms. Sumner-Mack? Ms. Nakanishi? Any further discussion? Okay if not, the motion is that –
- Mr. Wiseman: Just one thing though, in the decision that Counsel would write, draft for us, I would like some, what we call dictor (?) Gary, about the need the have (inaudible), I don't know something general.
- Mr. Robinson: Okay well lets vote on the motion first and then we can instruct Counsel after that. So then the motion is that we reviewed the information and that we can't find anything verifiable that would show that there has been ethical violations by the County, and so all those in favor say Aye. Any contrary minded? Okay motion passed.

**Motion and vote: Mr. Heintz moved to dismiss the petition. Mr. Wiseman seconded the motion. All members voted Aye.**

- Mr. Robinson: And then, Mr. Murai if you could work with Mr. Wiseman on the wording of that as well? Is that possible?
- Mr. Murai: Okay sure. That's possible. Mr. Chair, just so I'm clear on what just happened. The Board has decided to make a decision based upon the information it has before it. The Board will be issuing an informal advisory opinion along the lines of what member Heintz described and the Board does have concerns though about matters that may not be strictly within its jurisdiction but upon which, they have concerns about, such as the provision of whatever, appropriate wastewater treatment or handling in the Ka'ū area. Is that correct?
- Mr. Robinson: Correct. There are concerns, but for the allegations made, we did not, we just issued that informal advisory opinion that we did not find anything there.
- Mr. Murai: Okay got it.
- Mr. Wiseman: Yea, and with respect to, I don't think we wanna mention but, the safe and sanitary conditions. But there was one comment by Ms. Demoruelle, that yeah she wants us to declare what is truth, for the appeal to be truthful, that's not within our mandate and as we know there is a truth decay in this Country now because of the last four years so we're gonna stay away from that.
- Mr. Robinson: Okay. Thank you. Alright...we're done.

**12:11            *The Board went back to finish discussion on item 5b***

**11:01 a.m. b. Petition 2020-04: Continued review of a complaint regarding the lack of enforcement and/or unequal enforcement of state laws at the Thirty Meter Telescope protest encampment at Mauna Kea Access Road.**

Mr. Kim: Good morning sir, thank you very much for taking me out of order, I just have a prescheduled meeting I could not change. So thank you...I'm very unfamiliar with the protocol here.

Mr. Yoshimoto: So Mr. Chairman, my understanding is the Mayor is here in response to the Board's letter indicating that he was named as a respondent to 2020-04.

Mr. Robinson: Correct:

Mr. Yoshimoto: So he's here to answer any questions that the board members might have.

Mr. Robinson: Oh, ok. I thought the Mayor was coming to make a statement regarding that.

Mr. Yoshimoto: Oh, either way.

Mayor Kim: May I take this now?

Mr. Robinson: Yes, please.

Mayor Kim: We do have a very important meeting this morning and it's regarding the coronavirus policies for Hawai'i Island and the State. Cause you know we're in a very difficult situation and I heard this comment in regard to the anxiety of different things going on and I think obviously that's one of me. One of the biggest things affecting this State is our travel policy. A new thing that came out was California and Washington state, imposed a self-quarantine order for all interstate travel. So that's quite a big move by them, and it is because of the increase of the surge. In regards, thank you for that. Anyways, in regards to why I'm here...

Ms. Sumner-Mack: Is his microphone on?

Mr. Robinson: Yes...push the button -

Mayor Kim: It is on.

Ms. Sumner-Mack: That's better.

Mayor Kim: Oh I'm sorry... In regards to Mauna Kea, you know there's been so much confusion about the County government's role, which obviously I am part of, in regards to what is our role in the Mauna Kea issue. The Mauna Kea issue in regards to the Telescope is strictly a state issue. The only participation the County Government did working backwards was when the Governor pulled out all of Mauna Kea in regards to Emergency Proclamation of the National Guard and the State Resources and at the that time, I forgot the date of it, he notified me and all representees of County Government, the access to Mauna Kea mountain was now to be open was under the responsibility of the County Government of Hawai'i. That is the only time we took any kind of authority of all the project up there. All the rest of it, and I do mean all, without any hesitation including use of Police, use of Fire, or any other resources was with the State Government of Hawai'i.

Mr. Robinson: Okay. Do any board members have any questions for the Mayor?

Mr. Heintz: Yes, Mr. Mayor.

Mayor Kim: Yes sir.

Mr. Heintz: So, the point at which the County was involved, did involvement ever end? I mean, you said it was with regard to the access road and so that I think is what precipitated the question of the petitioner, is the access road, basically to keep that open was delegated your office is that right? Is that what I'm understanding?

Mayor Kim: That's correct on that particular date, the Governor held a press conference and state that the National Guard and their participation in regards to the blockage of the road was gonna be terminated because there was no need for them because the Thirty Meter Telescope people said no action was gonna be taken for a while. And that's how I found out, through that announcement. And so, I was given approximately one week to open it, because that was when the State program was gonna re-open to the public. And so I immediately proceeded to have it open with negotiations with the people of the telescope as well as the people from the Hawaiiana group. And it was open.

Mr. Heintz: And so the road has been open throughout this period? Is that what you're saying? Are you saying that the road then, was open and has been open throughout this period?

Mayor Kim: Yes, sir.

Mr. Heintz: Because I think the petitioner is claiming that the road is not open. Or wasn't open, and people didn't have access.

Mayor Kim: It was not, it is now open. It was not open prior to that state pull-out.

Mr. Heintz: Ok, but once the County was involved, it's been open the entire time.

Mayor Kim: It took about a week from the date of announcement to clear it out, open it, and having a barricade removed. It is open now, and has remained open since then.

Mr. Heintz: Amongst the things that the petitioner is claiming is that one wasn't able to use the access road but had to go off to another way to go up the mountain?

Mayor Kim: That was prior to opening, Sir. There was a blockade to that single access road and people had to go around it.

Mr. Heintz: A long time has passed and I'm trying to work from memory. So really if I'm understanding you correctly, the road was only closed for a very short time, at the very beginning of the...and the protest has gone on for like a year. But they let people through.

Mayor Kim: Well the road was closed for quite a bit.

Ms. Sumner-Mack: My understanding was that maintenance people had to go up, always, every day. Somebody had to be allowed up. And the maintenance people were always let through. Is that so?

Mayor Kim: There was a slight detour where the people who had reason to go up, that was cleared at the barricade, was allowed to go through. But now it's open to everyone including general public.

Ms. Sumner-Mack: May I ask two questions, they're related. One is, did the County expend a lot of money from its own budget to handle this situation. That's question number one, and number two is, were we reimbursed, was it reimbursed by the Federal Government or the state, eventually?

Mayor Kim: The money was reimbursed by the State Government. As far as County money, all of the Police and other resources, was not used, except for the opening and I did delegate a Public Works crew to go out there and clear out the road and do emergency repairs to make it safe for general public use. And if you count the Office of the Mayor's time, you know, time converted to money, yes I did

spend some time up there and so did others, but the major cost factor that were, were the Police 24 hours and also Fire personnel. But all of the Police personnel was reimbursed by the State. As far as I know the only actual money spent up there was in regards to clearing out the road.

Ms. Sumner-Mack: Thank you.

Mr. Heintz: Mr. Mayor may I ask another question. Another question I have is, the petitioner has included videos of the road being blocked, of their car going up to the barricade and not being allowed to go through. So If I'm understanding your testimony, then what you're saying is that happened while that was under the authority under the state of Hawai'i, in the early portion, but not once the Hawai'i County was involved. Am I understanding this right? Because the video shows people being blocked and not having access...

Mayor Kim: It's very easy Sir to be, you know, what is happening up there, because even though there was a blockade there, people were allowed to go through, as the workers and people out there that had reason to be out there. But there was road block there that was being screened by people. In regards to removal it was removal of all of that to allow free access to the general public and all workers, without being stopped.

Ms. Nakanishi: So Mr. Mayor, does that include construction people?

Mr. Robinson: That's Denise Nakanishi, who's one of our board members.

Mayor Kim: I'm sorry who's talking?

Mr. Robinson: You can see her back there on the screen, right there...I'm sorry Mr. Mayor, over here to the left you can see...Go ahead Ms. Nakanishi.

Ms. Nakanishi: So my questions is, does the road being open include construction crews? Or how, like there's some agreement that they're not to go up there?

Mayor Kim: Are you talking about the present time ma'am? Or during the blockade.

Ms. Nakanishi: In present time.

Mayor Kim: It is open to the public but as far as I know there are no construction crews. There are maintenance crews at the telescope

yes but no construction crews. In other words nothing related to the Thirty Meter Telescope is going on.

Mr. Heintz: Do you have an arrangement worked out with the protestors that if the Thirty Meter Telescope construction process, they decide to initiate again, that they will be blocked, or that, I mean I understand that they will be protested, but will they have access or has that been resolved or worked out?

Mayor Kim: The only agreement I have with the people of Mauna Kea, protestors or protectors, is asking them to leave the area for free access and assuring them that we have been assured by the Thirty Meter Telescope people that there would be no attempt of any kind for construction to begin. And this is what I notified them, asking for their cooperation to open it up, which they did, very gracefully. Gratefully accepted, obviously and assure them that I will communicate with them and there would be no attempt of any kind to sneak people up there.

Mr. Robinson: Mr. Wiseman?...Any questions Mr. Wiseman?...

Mr. Wiseman: Good Morning, Mr. Mayor.

Mayor Kim: Good morning, Sir.

Mr. Wiseman: David Wiseman. Notwithstanding any suggestions, are these suggestions or requests, however you label it, from the Governor to you, with respect to the TMT, it appears to me that you know, a facility such as Mauna Kea, the observatory and everything about is such a national, international prominence and it's a major facility in the State. I find it hard to see how you could have that responsibility and I'd like to know...My position would be that it should've been the State that should've been in full control of this issue and I'd like to know how you feel about that.

Mayor Kim: If I'm not answering your question please stop me. First of all, I have stated this is a State project and the University of Hawai'i and Hawaiian Homes authority. My only responsibility at the time that was given in two-fold. One of em was because I had expressed publicly my opinion of Mauna Kea and the telescope. I forwarded to him the going forward issue of Mauna Kea, and there was a personal element of what I thought Mauna Kea can be and could be for the people of Hawai'i and the world, in regards to astronomy and relationships. In regards to that, that was a personal thing, asked to be done by the Governor, which I did. The second time was regards to, because he was informed by the TMT individuals that there would be no construction attempt for a while,

it'd be suspended because of various reasons of climate and timing and everything else. And it was at that time I say, he made an announcement, that there's no reason for the State Government to be up there and in regards to the blockade area, screening and those things in order, that he is going to pull out the State resources of National Guard, DOCARE and others, County police as well. And it was at that time I was informed that the responsibility of opening the road falls through the County Government of Hawai'i. And that is the only two times that I had any kind of responsibility or authority on the mountain, on the road.

Mr. Wiseman: I see, thank you. And just a follow up, in view of that position with respect to the Police activities up there, did you feel that you had line authority with the County Police to direct them and tell what to do up there, etcetera?

Mayor Kim: No, sir. That confusion part which is easily understandable. This is a County Police department but they were in agreement including the responsibility and including payment which was made in full by the State Government. Truthfully, I was quite surprised that I could even ask the Police in regards to focus on safety by a certain kind of manpower and I could not even do that. I think it's the opportune time for people to understand the County Government Mayor responsibility with the Police Department is strictly supervisory administrative and it is ruled by a commission. A people's commission.

Mr. Wiseman: I see. My last question Mr. Mayor, like me, you're too young to retire so what are you gonna after your term?

Mayor Kim: I don't know how old you are Sir but I totally agree with you to sit down and do nothing is like saying I'm waiting to die, and I'm not ready to die.

Mr. Wiseman: Thank you Mr. Mayor.

Mr. Heintz: Mr. Chairman, I have another question.

Mr. Robinson: Please Mr. Heintz, go ahead.

Mr. Heintz: Mr. Mayor, am I correct that you have seen and have read the petitioners petition with her supporting materials? Am I correct to that? That's the case?

Mayor Kim: I'm sorry say again, Sir?

Mr. Heintz: That you have seen the petition to this Ethics Board, Ms. Malakaua and Nathaniel's petition? If I'm right about that, so am I right in inferring then that what your position is, is that their entire petition would be appropriate to the State Ethics Committee not to the County Ethics Commission? Because of your involvement is --

Mayor Kim: When I first read it, maybe I shouldn't say it but, I spent two or three minutes glancing at it and almost zero time preparing for this morning except the secretary saying remember your appointments. Because in my mind sir it was very clear from the beginning til now, what I did and what my responsibilities are, and that's why I stated of confusion by people in the role of the Mayor. Ours was very, very limited by law and I identified those two things that I was involved in. Yes I did go up there as a person and as a Mayor to talk to them to try to see if we could resolve this in a good way but that was just an individual thing. And writing the Going Forward of Mauna Kea again, was an individual thing.

Mr. Heintz: So could you address the part of my question that you believe this matter then should be before the State Ethics Commission because it's the Governor and the Department of Hawaiian Homelands and...

Mayor Kim: Well the reason I didn't know how to really answer the question because, if it's to bring forward a complaint or concern about my role, I don't see, and really I don't care where it's brought up towards, there is nothing to discuss. I had to no role in it. If they were to bring it up to the State Level or any level, it really doesn't matter. The position and response is the same. Whether it be here or the State Level.

Mr. Heintz: Thank you.

Mr. Robinson: Any further questions for Mr. Mayor? If not I just have one Mr. Mayor.

Mayor Kim: Yes sir,

Mr. Robinson: This board was concerned about the fair and impartial enforcement of the rules, regulations and laws of the State of Hawai'i. And it seems that, you know, that was not being enforced fairly. So that was the concern from the Board, the petitioners had the same exact concerns as well. And the day that they assembled all of the officers from O'ahu, from Maui, from the Big Island, DOCARE officers as well, and they were assembled and prepared to go forward and then there was a last minute call to stand down, was that the decision of --- that stand down.

Mayor Kim: The Governor's.

Mr. Robinson: The Governor's decision. So this is really a matter more aptly addressed by the State Ethics Board I would think.

Mayor Kim: If that is the issue.

Mr. Robinson: Yeah, correct. Okay, anyone else? We did get the opinion of your Corporation Counsel, Mr. Kamelamela. He spoke to us twice. We were a little concerned about that and that it seemed that we had no position or power or any way to even address this so that was a concern. So I thank you for coming forward and speaking to us.

Mayor Kim: Well I thank you because understandably there was a lot of confusion on whose authority doing what they were doing and I get that almost every day from people, "Why didn't you do this, why don't you do that?" and this is a nice opportunity to clarify. So thank you very much.

Mr. Robinson: Thank you. Okay if nothing further, then thank you for your time, we really appreciate it.

Mayor Kim: Thank you sir, thank you board.

***10:23 p.m. The Board returned to Item 2***

***12:11p.m. The Board returned from Item 5a to finish discussion on item 5b***

Mr. Robinson: Mr. Murai I think you were here for the Mayor's presentation this morning is that correct?

Mr. Murai: Yes I was.

Mr. Robinson: So we all heard the Mayor's presentation and there's no one else here from the people who filed the petition today to speak so we just have the Mayor's presentation. Is there any other discussion anyone would like to have in regards to this petition?

Mr. Yoshimoto: Rick, I'm advising this one.

Mr. Robinson: Oh you're on this one?

Mr. Murai: I was about to say, this isn't one of mine. It's not mine.

Mr. Robinson: Okay, sorry about that. I was throwing you under the bus already here.

Ms. Sumner-Mack: Has anybody heard from these people why they aren't here?

Mr. Robinson: They were informed correct?

Mr. Yoshimoto: No Mr. Chairman, my recollection from reading the notes is I think we'd indicated that we're gonna let them know about the hearing and so my understanding is, No they were not notified cause we didn't get any response from the Mayor's office until actually today so, right now we should prob – well it's up to the board how you wanna handle it but it'd probably be a good idea to continue it and then re-notice the petitioner.

Mr. Robinson: So if we continue it, we can give them a copy of the mayor's testimony, correct?

Mr. Yoshimoto: Yes, that's on the record yes

Mr. Robinson: Since it was last minute. So let's continue this. I need a motion for that right?

Mr. Yoshimoto: Yes.

Mr. Robinson: To continue this to the next Board meeting and in continuing it we'll provide the petitioners with a copy of the Mayor's testimony and see whether or not they appear at the next meeting and where we take it from there. It would also give us the opportunity to hear what their petition is that they've submitted to the state ethics board as well.

Mr. Heintz: And that would include our interaction with the Mayor and all discussion?

Mr. Robinson: Correct. They would get a copy of that before the next meeting. So can I get a motion to continue that?

Ms. Sumner-Mack: I so move to what you said.

Mr. Robinson: Okay, okay.

Mr. Heintz: I second.

Mr. Robinson: Okay moved and seconded that we continue petition 2020-04 to the next meeting and give the petitioner a copy of the Mayor's testimony this morning and the interaction with the various Board members so that they'll have that. And then we'll put it on our

agenda for the next board meeting. Any further discussion? If not, all that's in favor say Aye. Contrary minded.

**Motion and vote: Ms. Sumner-Mack moved to continue the petition. Mr. Heintz seconded the motion. All members voted Aye.**

- c. **Petition 2020-05 (Combined with 2020-01): Initial review of a petition alleging that three County officers or employees are in violation of Section 2-83 (Fair Treatment) and 2-84(a) (Conflict of Interest) of the Hawai'i County Code.**

*Heard with item 5a.*

- 12:14 p.m. d. **Petition 2020-06: Review draft informal advisory opinion regarding a petition from a County officer to determine whether there is conflict of interest to provide services to the County of Hawai'i Civil Defense Agency while serving as a member of a Hawai'i County board or commission.**

Mr. Robinson: Okay these were the two people who presented who I guess sit on the Civil Defense Board, or Civil Defense. But they also do business, we heard both of their presentation, and we have a draft informal advisory opinion for both of those. Has everyone read those, are they okay with that? So, if everyone's read that and they're okay with it. Then a motion –

Mr. Heintz: I move that we approve the two drafts of informal, can we do these together?

Mr. Robinson: Yeah we can.

Mr. Wiseman: I second that. That they be issued as final documents

Mr. Robinson: Ok so we, the motion and the second is that we approve 20-06 and 20-07 together. Not together, but separately, but approve those and any further discussion? If not, all those in favor say Aye.

**Motion and vote: Mr. Heintz moved to approve the draft informal advisory opinions for both 2020-06 and 2020-07. Mr. Wiseman seconded the motion. All members voted Aye.**

- e. **Petition 2020-07: Review draft informal advisory opinion regarding a petition from a County officer to determine whether there is conflict of interest to provide services to the County of Hawai'i Civil Defense**

**Agency while serving as a member of a Hawai'i County board or commission.**

*Heard with Item 5d, also approved.*

**12:19 p.m. Board moved to item 6d**

**6. VOTING ON EXECUTIVE SESSION MATTERS**

- 12:35 p.m.**
- a. Review of the executive session minutes of September 9, 2020 and October 14, 2020**
  - b. Review of the closed session minutes of August 12, 2020 and September 9, 2020.**

Mr. Robinson: So we've had a chance to review the executive session of September 9<sup>th</sup>, October 14<sup>th</sup> and the closed session meetings of August 12<sup>th</sup> and September the 9<sup>th</sup>. Is there motion to approve those?

Mr. Heintz: I so move.

Mr. Robinson: Is there a second.

Mr. Wiseman: Second.

Mr. Robinson: Okay, moved by Larry, seconded by David. We approved those four items. Any further discussion? If not, all those in favor say Aye. Alright we're all done with that.

**Motion and vote: Mr. Heintz moved to approve minutes. Mr. Wiseman seconded the motion. All members voted Aye.**

- 12:36 p.m.**
- c. Review of *Confidential Financial Disclosure Forms* filed pursuant to Section 2-91.1(d), Hawai'i County Code, by County board and commission members and designated County employees, where personal matters will be reviewed.**

Mr. Robinson: So the five items that we had that we reviewed today which are Okumoto, Nakanishi, Nishimoto, Okamoto and DeFranco, have been signed by three of the Board members and those will be continued until our next meeting to give our two absentee Board members the opportunity to stop by the County office and sign off on those, and so is there a motion to continue those five items to the next meeting?

Mr. Heintz: I so moved.

Mr. Robinson: Okay is there a second on that motion?

Ms. Sumner-Mack: Second,

Mr. Wiseman: Mr. Chairman...correction, we are not absent, we are present by, virtually present.

Mr. Robinson: Okay, disembodied voices, I'll put it that way.

Mr. Wiseman: I don't want the record to show that we didn't show up, cause we did.

Mr. Robinson: They're with us but not physically but electronically. Sorry about that. Okay so all those in favor say Aye. Okay those are continued.

**Motion and vote: Mr. Heintz moved to continue the review of the financial disclosures. Ms. Sumner-Mack seconded the motion. All members voted Aye.**

12:19 p.m. d. **Re-Review of *Confidential Financial Disclosure Forms* filed pursuant to Section 2-91.1(d), Hawai'i County Code, by County board and commission members and designated County employees, where personal matters will be reviewed.**

Mr. Robinson: So is there a motion to approve all of items on Item d that have already been reviewed and signed off on?

Mr. Heintz: I so move.

Mr. Robinson: Is there a second?

Ms. Sumner-Mack: Second.

Mr. Robinson: Okay it's moved and seconded, all those in favor say Aye.

**Motion and vote: Mr. Heintz moved to approve the financial disclosures in Item 6d. Ms. Sumner-Mack seconded the motion. All members voted Aye.**

Mr. Robinson: We got all those done so we only got the five...and then we'll go to executive session. Is there a motion for executive session?

Mr. Heintz: I moved to go to executive.

Mr. Wiseman: What are we doing?

Mr. Robinson: We're going to executive session to review the minutes of the two as well as the five financial disclosures. And then we'll go back to

regular session to approve the executive session minutes and then we will continue the five. You folks will then get a chance to sign those. And then we will announce the next monthly meeting. It says October 14<sup>th</sup> on the announcements but I think that's incorrect.

Mr. Yoshimoto: That's correct, we would need to correct that for the record it would be I believe it's December 9<sup>th</sup>. Yep.

Mr. Robinson: Let's go to executive session with a motion.

Ms. Sumner-Mack: I move that we go to executive session but I can't find the page.

Mr. Robinson: Okay is there a second?

Mr. Heintz: There's a second.

Mr. Robinson: Okay, moved and seconded, all those in favor say Aye.

**Motion and vote: Ms. Sumner-Mack moved to go to executive session. Mr. Heintz seconded the motion. All members voted Aye.**

***12:20 The board moved back into Executive Session***

\* \* \* \*

***12:35 The Board returned to Regular Session to Item 6a and 6b***

**7. DISCUSSION REGARDING 2021 BOARD OF ETHICS MONTHLY MEETING SCHEDULE. (12:37 p.m.)**

Mr. Robinson: There was a list of recommended times for next year for the meetings of the Ethics Board. And we can go ahead and set those now or we could review those and continue those to the next meeting, everybody could check their schedule and then we could take action on that at the next meeting.

Mr. Heintz: Yeah if nobody objects I'm willing to approve the ones that they have here...Oh we're just approving the ones that we've reserved.

Mr. Robinson: Mr. Wiseman did you have a chance to review these, Ms. Nakanishi? Did you have a chance to review these?

Mr. Wiseman: Yeah they seem okay to me.

Mr. Robinson: Ms. Nakanishi? You ok?

Ms. Nakanishi: Yeah.

Mr. Robinson: So is there a motion to set these items as meeting dates for 2021?

Mr. Heintz: I so move.

Ms. Sumner-Mack: I moved

Mr. Robinson: Okay moved, and seconded?

Mr. Heintz: Okay I'll second.

Mr. Robinson: We set these meeting dates for 2021. And any further discussion? If not all those in favor say Aye. Contrary minded

**Motion and vote: Ms. Sumner-Mack moved approved the meeting dates. Mr. Heintz seconded the motion. All members voted Aye.**

**8. ANNOUNCEMENTS (12:39)**

**a. The next monthly meeting of the Board of Ethics is scheduled for October 14, 2020 at 10:00 a.m. at the Hawai'i County Building, Council Chambers, 25 Aupuni Street, Hilo, Hawai'i 96720.**

Ms. Nakanishi: I have a question though; number 8 said our next meeting is October 14.

Mr. Robinson: I know, that's the next item on the Agenda...Okay our next meeting is December 9...and we'll be here correct? In the council chambers? That's an announcement. Any other items before the Board?

Mr. Heintz: Mr. Chairman, would it be appropriate to request certain items be placed on the agenda of the December 9<sup>th</sup> meeting?

Mr. Robinson: Absolutely.

Mr. Heintz: And those would include the, since the population has passed by a vote of 71% the Charter Amendment 15, that applies to the Ethics Board, that applied to updating our rules that we receive a copy of the revisions that were drafted last year. And I think J has some additional changes and we received those early enough that we can look at them and not have to reinvent the wheel but we might be able to make some further changes. Can that be added or made part of the agenda?

Mr. Robinson: Not so much adding it to the agenda but that J would work that up and have it available for us. But I like the idea of early enough so that we don't get it last minute.

Mr. Yoshimoto: So I can get it to you either this week or next week because my understanding is, the Board approved the changes, I just need to compile it if it's not already in one document. So I'll put it in one document so it's more easily understandable. Yup.

Mr. Heintz: My second thing is a question, when do we select Chairman and is Rick able to continue as chairman. What is the calendar for that?

Mr. Yoshimoto: We usually do that at the beginning or the end of the Calendar year so that could be done either in December or January where we have it planned to be on the agenda for December as the election of officers for Chair and Vice Chair. And then in terms of Mr. Robinson's term his term is up December 31<sup>st</sup> but the Charter allows a 90-day holdover provided there's no person appointed in his position.

Mr. Heintz: Thank you.

Mr. Robinson: Okay anything else?

Mr. Heintz: I was just wondering were we ever going to re-visit Mr. Kamelamela's letter or is that issue all done? Is that settled? Is that behind us?

Mr. Robinson: Yeah we got his letter, we read it, it's kind of behind us. They Mayor came in and testified. I alluded to Mr. Kamelamela's letter today in our discussion with the Mayor. He didn't seem to rise to the bait at all.

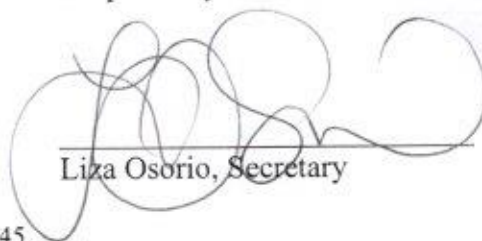
Ms. Sumner-Mack: I thought you finished it off at the end of the last session...

Mr. Heintz: Well somethings need to die with many cuts rather than just one...

Mr. Robinson: Any further items? Alright meeting adjourned.

**9. ADJOURNMENT (12:39)**

Respectfully submitted:



Liza Osorio, Secretary