

**HAWAI‘I COUNTY BOARD OF ETHICS
MINUTES – REGULAR SESSION**

Wednesday, February 16, 2022

10:01 a.m. to 11:31 p.m.

Hawai‘i County Building

25 Aupuni Street

County Council Chambers

Hilo, Hawai‘i 96720

Members and Staff Present:

Larry Heintz, Chair

Amy Self, Vice Chair

Denise Nakanishi, Member

Cody Frenz, Deputy Corporation Counsel

Liza Osorio, Secretary

1. CALL TO ORDER (10:01 a.m.)

Mr. Heintz called the meeting to order at 10:01 a.m.

2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS (10:02 a.m.)

There were no statements from the public.

**3. APPROVAL OF THE REGULAR SESSION MINUTES OF DECEMBER 6, 2021
(10:04 a.m.)**

Motion and Vote: Ms. Self moved to approve the minutes, subject to corrections. Ms. Nakanishi second the motion. All members voted aye. (10:05 a.m.)

4. NEW BUSINESS (10:05 a.m.)

- a. Petition 2021-18: Review of a Petition requesting an Informal Advisory Opinion regarding a potential conflict of interest for contractual uniform alteration work done by Sew & Go at the request of the Mass Transit Agency; The owner of Sew & Go is a County of Hawai‘i employee (not employed within the Mass Transit Agency).**

Mr. Heints: Do we have Tiffany Kai or a representative of the Transit Program present?...Okay.

Ms. Kai: Tiffany Kai, Transit Program Manager for the Mass Transit Agency. I’m here today to get approval to pay one of the vendors who had performed alterations for our mechanics. What we had done is ordered uniforms for the mechanics which then entailed hemming of their slacks. So we’ve, well I reached out to Sew &

Go who said she would be able to do the alterations and then I also called another vendor, well two other vendors to see if they could do it. One was a little bit, a few dollars more per slack or per pants and the other one, I didn't get a response. And so, evidently Sew & Go, the owner of Sew & Go is also an employee of the County of Hawai'i. I believe she's in another, Property Management division? But not with the Mass Transit Agency.

Ms. Self: So you went through a small purchase procurement, correct?

Ms. Kai: Somewhat, I would say, because the total amount that we owe Sew & Go is about \$345 for the hemming of 30 slacks.

Ms. Self: Okay, you considered three different vendors right?

Ms. Kai: Yes.

Ms. Self: Okay.

Mr. Heintz: Is there any connection between the Mass Transit Agency and its decision maker for this contract and the owner of Sew & Go.

Ms. Kai: No, I've used Sew & Go before to do alterations for my daughter's cheer team.

Mr. Heintz: Okay, thank you. Are there any other questions by board members?

Ms. Nakanishi: Tiffany, is this gonna be an ongoing expense?

Ms. Kai: I'm not too sure, probably. Let's say if we do hire additional mechanics, we will need to get their alterations done or wear and tear on the uniforms, and then we need to order more slacks or uniforms then we'll probably need to do more alterations but knowing what we have gone through, through this first purchase we would seek another vendor to provide that service for us.

Mr. Heintz: Okay I just wanted to make a comment if there are no other questions...Go ahead Amy.

Ms. Self: Mine is waiting for Dakota, she's gonna ask Corp Counsel...

Mr. Heintz: Okay, I was just making another comment. The question here is whether there is a conflict of interest and I wanna make it clear that the section 2.84 Conflict of Interest section, is not intended to bar business with County employees or owners of businesses to do

business with the County. And that's especially made clear when you look at Section 2.83(c)(1) and (2). What is important is that you disclose that they are County employees and that there is no conflict of interest between the persons who are making the decision and making the selection, okay?

Ms. Kai: Understood, thank you.

Mr. Heintz: Yes Amy, go ahead.

Ms. Self: I retired like four, three years ago, I cannot remember to save my Life, all the procurement issues but I'm just a little bit concerned that, I know a small purchase requires very little work to do but I'm just concerned that the procurement code was followed. Because even with small purchases, I think, I could be wrong, I think you have to have, I thought you had to choose from a list. I can't remember now, where you have to have...I could be way out of line but I know that there is procurement of small purchases. I know there's a procurement process I just don't know if it was filed or not.

Ms. Frenz: This is Deputy Corporation Counsel Cody Frenz for the record. So I'm making arrangements at your request Amy, to have somebody join us just briefly from purchasing in finance to quickly answer that question. We're just gonna get her connected so if we could take recess in place...

*** The board took a few minutes for recess ***

Ms. Frenz: Thank you, we'll go, we were on a recess so we'll continue picking up. I did ask Diane Nakagawa from our purchasing department with the finance department to join us just to briefly answer this question. Good morning Diane. Thank you for jumping on so quickly. If you just state your name and the question is from Board member Amy Self, whether or not in this case the amount in issue was for \$345. Member Self wants to make sure that procurement code was followed in the process done by Mass Transit. Is that correct Ms. Self?

Ms. Self: Yes, for small purchases.

Ms. Frenz: For small purchases.

Ms. Nakagawa: Okay good morning, Diane Nakagawa, Purchasing Agent for the County. So, each department has a different delegation for the purchases that they do on their own. In this case Mass Transit has a

\$5,000 delegation, normally it's a \$1,000 delegation for most departments. That means that the department will handle procurement on their own and highly advise for the department to get three quotes for any item purchased, and those quotes will be kept in the procurement file within the department.

- Ms. Self: And that's what you did right.
- Ms. Kai: Yes.
- Ms. Self: And you put it in the file, you put that you did that...good, got it. Thank you.
- Ms. Frenz: Do we need anything else from Ms. Nakagawa?
- Mr. Heintz: I don't believe so.
- Ms. Frenz: Ms. Nakanishi, any questions from you for Ms. Nakagawa?
- Ms. Nakanishi: No.
- Ms. Frenz: Thank you so much, thank you Diane for jumping on so quickly and for your help. I appreciate it.
- Ms. Nakanishi: Sure no problem, take care.
- Ms. Frenz: Take care, bye. Thank you Chair.
- Mr. Heintz: Thank you, so is there any other discussion? Hearing none, I'd like to call a question, all those in favor of the motion that there is no...wait did we actually make a motion? I'm sorry. Amy would you like to make a motion?
- Ms. Self: This is for a informal advisory opinion?
- Mr. Heintz: Yes.
- Ms. Self: Okay...Okay I'd like to make a motion that we find nothing unethical about the small purchase procurement, there's no conflict of interest...
- Mr. Heintz: Well we wanna site section 2-84 Conflict of Interest, there is no conflict of interest and also Section 2-83c(1) and (2) which make it clear that the conflict of interest section is not meant to bar the County from making contracts with employees.

Ms. Self: As long as they follow procurement codes.

Mr. Heintz: As long as they follow the procurement code and disclose those connections which you have done. And that's laid out clearly in Section 2-83c(1) and (2). So that's our motion that the Code of Ethics has been abided by, by the way in which you proceeded.

Ms. Self: It's now his motion.

Mr. Heintz: Okay, it's my motion. I've made a motion, is there a second for the motion?

Ms. Self: Second.

Motion and Vote: Mr. Heintz moved that Mass Transit is not in violation of Sections 2-83c (1) and (2) and 2-84, as long as they follow the procurement code and discloses those connections. Ms Self seconded the motion. All members voted aye (10:15 a.m.)

5. UNFINISHED BUSINESS (10:18 a.m.)

a. Petition No. 2021-13: Review draft Informal Advisory Opinion from the Chair of the Merit Appeals Board seeking guidance on potential conflicts with the Acting Director of Human Resources.

Mr. Heintz: Have all the members read the draft of the informal advisory opinion?

Ms. Self: Yes I believe I made changes.

Ms. Frenz: This is Cody Frenz from Corporation Counsel. Member Self do you have the updated most recent version? Are there additional changes?

Ms. Self: No, this is from way back when it first came out I made changes, right?

Ms. Frenz: Yes.

Ms. Self: Okay.

Mr. Heintz: Okay. So those changes have already been incorporated?

Ms. Frenz: Yes sir.

Mr. Heintz: Okay, are there any other changes? I'm happy to make motions from the Chair but usually, I mean the tradition that I'm used to is

the Chair doesn't usually make the motions.

Ms. Self: I'll make a motion.

Mr. Heintz: If that's okay. Thank you.

Ms. Self: I make a motion to approve Petition No. 2021-13 which is an informal advisory opinion from the Chair of the Merit Appeals Board.

Mr. Heintz: Is there a second?

Ms. Nakanishi: Second.

Mr. Heintz: Thank you, any discussion? No discussion. All those favor of the draft as it reads say aye.

Motion and Vote: Ms Self moved to approve the informal advisory opinion. Ms. Nakanishi seconded the motion. All members voted aye (10:20 a.m.)

b. Petition 2021-14: Review draft Informal Advisory Opinion of a Petition alleging that the Director of Parks and Recreation is derelict in his duties, failing to provide leadership with integrity and obstructing justice. (10:21 a.m.)

Mr. Heintz: Has everyone had a chance to read this informal advisory opinion?

Ms. Self: Yes.

Mr. Heintz: Okay.

Ms. Self: I'll make a motion to discuss if you want.

Mr. Heintz: Yes, thank you.

Ms. Self: I'll make a motion to approve Petition 2021-14, an informal advisory opinion of a petitioner requesting...I make a motion that we approve the draft informal advisory opinion from a petition that was requesting an informal advisory opinion alleging that the Director of Parks and Recreation is derelict in his duties.

Mr. Heintz: Is there a second?

Ms. Nakanishi: I second.

Mr. Heintz: Thank you, any discussion? All those in favor of the motion,

please say aye?

Motion and Vote: Ms. Self moved to approve the informal advisory opinion. Ms. Nakanishi seconded the motion. All members voted aye. (10:22 a.m.)

- c. **Petition 2021-15: Continued review of draft informal advisory opinion of a petition alleging that the Chair and Vice-Chair of the Leeward Planning Commission violated Hawai'i County Charter 6-7-5, quorum requirements, and Ethics Code 2.81, 2.82, 2.83(a)(3) and 2.86(b). (10:24 a.m.)**

Mr. Heintz: We move to the third...this is a draft order regarding Petition No. 2021-15. This is an order dismissing the petition. This is a matter involving Mr. Mark Van Pernis, the petitioner and the respondents are Mr. Michael Vitousek and Ms. Barbara De Franco. Do we have a motion to approve the order as drafted? Denise?

Ms. Nakanishi: I move to accept the order as drafted. I don't know if I need to repeat it all like Amy...

Mr. Heintz: Okay, is there a second?

Ms. Self: Second.

Mr. Heintz: Is there any discussion? Hearing none, all those in favor?

Motion and Vote: Ms. Nakanishi moved to accept the draft informal advisory opinion. Ms. Self seconded the motion. All members voted aye. (10:23 a.m.)

6. CONTINUED DISCUSSION REGARDING AMENDMENTS TO THE RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF ETHICS AND THE HAWAI'I COUNTY CHARTER AND COUNTY CODE. (10:24 a.m.)

Mr. Heintz: This item has been before us since 2018. Or this is really the first time that it has come before us. That's not always been in our control.

b. Review proposed amendments by Board member Larry Heintz.

Mr. Heintz: We'll move to item 6b and I would to deal with this maybe one section at a time. And see how it goes. What we have is, Mr. Ken Goodenow's draft revision with mostly editorial changes but a few substantive changes and I would like to first have a motion to approve the changes that are that have been typed out before us on item B1, which is section 2-86 and we will be dealing with B and all of C. So all of 2-86.

Ms. Self: Is that, excuse me.

Mr. Heintz: Do you have that?

Ms. Self: Yes I do but you said B1?

Mr. Heintz: B1 on our agenda, so...

Ms. Self: Oh I thought you were talking about the section. Never mind.

Mr. Heintz: Okay so now I'm going to Section 2-86(b), (c), (d) all the way through (g).

Ms. Self: I make a motion that we approve the proposed amendments to Section 2-86...

Mr. Heintz: It's actually all of b and c.

Ms. Self: All of b and c.

Mr. Heintz: Is there a second?

Ms. Nakanishi: I second.

Mr. Heintz: Okay now we'll go to discussion and I would like to make an amendment to the material we have before us. And the amendment I wanna make is in section b, the line that reads "complaint shall be filed within 6 years of the alleged violation", the change I want to make is change "6" to "2" years. Within 2 years of the violation instead of 6 years. So that's the change, that's the motion I wanna make. And I'm ready to discuss if I get a second.

Ms. Nakanishi: I second.

Mr. Heintz: Thank you.

Ms. Self: Why do we need another motion at this point?

Mr. Heintz: Can we just make an editorial change, change it from 6 to 2? I'm happy to do that.

Ms. Self: No I'm talking about...oh you need motion...

Mr. Heintz: I'm amending your motion. Your motion was to approve it as it was.

Ms. Frenz: Is there any other discussion or do you wanna take each motion, maybe it's easier that we take each separately...

Ms. Self: Each section at a time..

Ms. Frenz: Yeah. Are there any other changes from any board member tentatively to section 2-86(b) other than changing 6 years to 2 years at this time?

Ms. Self: Nope.

Ms. Frenz: Would you like to amend you motion then Chair to accept Section 2-86(b) as written with one change modifying 6 years down to 2 years?

Mr. Heintz: Yes, that's what we're doing.

Ms. Frenz: Is there a second for that amended motion from anyone?

Ms. Nakanishi: I second.

Ms. Frenz: Is there any discussion on that amended motion?

Ms. Nakanishi: I have a question...Is there a reason for 2 versus 3 versus 4...

Mr. Heintz: If I can just make a couple of comments. Mr. Wiseman, ever since this was introduced, as a retired court judge, he believes that 6 years is excessive and he explained...I talked with him, I asked him about this this morning, and he pointed out that 2 years is normal in civil proceedings in court cases, and he thought that 6 years was excessive for the kinds of things we're talking about here on the Ethics Board.

Ms. Self: Well 6 years is also civil because it's contract law. Contract law is, the statute of limitations is 6 years versus 2 years for tort law. So I don't know which one this is based on. Would you know? I have no idea.

Ms. Frenz: The modification rather, I'm not sure Mr. Goodenow, who drafted this modification, what he was basing it on. I agree as to the legal information that you've just cited Member Self, so it really is up to this board, which direction the board wants to have control over, contract, tort, both, somewhere in the middle, that's a board discussion.

Mr. Heintz: Right, okay.

Ms. Self: Well I know that for anybody who's filing a complaint against the County with your office, isn't that 2 years? Okay so they have to file it like say for instance, say they hit a pothole and damages their car, they can file a complaint against the County, and they have 2 years from when they hit the pothole or to cause the damage to their car to file a complaint right?

Ms. Frenz: They actually file a claim first and then should that claim not be resolved (inaudible)...Separate issue from this, but just to clarify.

Mr. Heintz: Okay, I just want, from my perspective, what we're talking about is a complaint that would be filed, that's there's been a an ethics violation, namely a conflict of interest or somebody in their employment has done something unfairly, treated someone unfairly, and so that I think it's a mistake to rely to heavy on the legal model. We're making ourselves a quazi, or we're quazi-legal body..

Ms. Self: We are that...

Mr. Heintz: Yeah, well and I think it's a mistake to push too far in that direction. In the time that I've been on this board, we have never moved to the point of formal hearings, although that may happen someday and I will recuse myself because I do not believe that I would be willing to serve as chairman to go through a process which, that's on a legal model and I think it's a mistake to do that, to push too far in that direction. So...

Ms. Self: I don't know why you'd be on the board then cause eventually it's gonna happen.

Mr. Heintz: Well it hasn't yet and when it does, I will step aside and I think we will have to have legal counsel take over at that point. But what's before us is the question of 6 years or 2 years for a complaint for an alleged violation. Is there any further discussion of that?

Ms. Self: I would be in favor of 2 years based on the fact that when you file a claim against the County, it's 2 years. And then if this goes to council, for them to amend the code with our changes, the corporation counsel will be reviewing it, and she can determine whether or not 2 years is sufficient. Cause I know that this must've been based on something, it just didn't pop out of thin air. That's just my concern, I'd like to know what these 6 years is based on when this particular section of the code was drafted, was approved by the Council.

Ms. Nakanishi: That was my concern.

Mr. Heintz: I'm not sure we can tell from the document but I don't – this passage is I guess taken from the existing document right? And the new material that Mr. Goodenow is adding is underline?

Ms. Frenz: That's correct. Anything stricken is being recommended to be removed. I do not have access at the moment to the legislative history for 2-86(b) but that can be obtained through LRB if that wanted to be reviewed by this board, short of it going forward to County Council where another process, thorough process will be reviewed and worked on.

Mr. Heintz: Okay so if there's a problem with our changing it to 2, there's another shot at it.

Ms. Frenz: That's correct. It can be modified before County Council.

Mr. Heintz: Okay, okay. Any further discussion?

Ms. Nakanishi: Larry have you ever had or do you recall anything that was filed outside of a 2 year window?

Mr. Heintz: Not in the time that I've been on this board. But that's only 3 years. And Mr. Wiseman would tell you the same thing for 5 years. Okay if there's no further discussion then I will call a motion...All those in favor of the modifications as written with the change of, the single change from 6 years to 2 years, please say Aye.

Motion and Vote: Mr. Heintz moved to accept Section 2-86(b) as written with one change modifying 6 years down to 2 years. Ms. Nakanishi seconded. All members voted aye. (10:36 a.m.)

Mr. Heintz: We're moving down to Section 2-87, section on formal opinions. And that section involves deleting basically substituting for section (a) deletion, the existing section (a)...and then deletions, well let's I guess when I read through this I just see these as editorial changes. Is there any member who has any questions about these changes?...I realize that we probably should have a motion first.

Ms. Frenz: Yes chair.

Mr. Heintz: Sorry. So what we're doing is making a motion about the Section 2.87 Formal Opinions. And the motion is to accept the changes as stated in this document which means the deletion of section

(a) and replacement language for the new section (a) which I'll read if you'd like? Not necessary? Section (e) there's changes that are in the record.

Ms. Frenz: So just to clarify, do we have a motion to approve Section 2-87 as currently drafted on the agenda? Do we have a motion and a second as to that?

Mr. Heintz: We have a motion but no second I think, is that right?

Ms. Nakanishi: I second.

Ms. Frenz: We have a second from Denise. Any discussion Chair?

Mr. Heintz: Any discussion? Any comments?

Ms. Self: Wait a minute...no that's okay.

Mr. Heintz: Okay hearing none, all those in favor of the motion please say Aye.

Motion and Vote: Mr. Heintz moved to accept Section 2-87 as currently drafted. Ms. Nakanishi seconded. All members voted aye. (10:39 a.m.)

Mr. Heintz: Moving now to section 2-88 Disposition after issuance of formal opinion. There are three sections of the old language which is deleted and new language to replace it. Sections (a). (b) and (c). Have members had an opportunity to read these?

Ms. Self: Yes.

Mr. Heintz: Do we have a motion to approve the change?

Ms. Self: I'll make a motion to approve the changes under section 2-88.

Mr. Heintz: Is there a second?

Ms. Nakanishi: I second.

Mr. Heintz: Any discussion? Hearing none, all those in favor of the motion please say Aye.

Motion and Vote: Ms. Self moved to accept the changes to Section 2-88 . Ms. Nakanishi seconded. All members voted aye. (10:40 a.m.)

Mr. Heintz: We move now to section 2-90 Confidentiality. This one section (a).

Ms. Frenz: Is there a motion to approve section 2-90 Confidentiality as modified on the agenda?

Ms. Self: So moved.

Mr. Heintz: Do we have a second?

Ms. Nakanishi: I second.

Mr. Heintz: Thank you, any discussion? Okay hearing none, all those in favor of the motion please say Aye.

Motion and Vote: Ms. Self moved to approve section 2-90 Confidentiality as modified on the agenda. Ms. Nakanishi seconded. All members voted aye. (10:41 a.m.)

c. Request discussion from Corporation Counsel on status of proposed amendments, and suggestions on the next steps regarding said amendments.

Mr. Heintz: Gonna take these one at a time as well. First, there's a section, new section, or new material for section 2-83, failure to discharge. Motion reads: "Officers and employees of the County shall carry out their duties and responsibilities of their offices. Inaction, non-performance or omission of action shall constitute a failure to discharge their oath of office and thereby a violation of the Code of Ethics." Do we have a motion to put this on the table? I will make the motion.

Ms. Nakanishi: Larry, I need to step away just 2 seconds. Sorry.

Ms. Frenz: We'll take a recess in place.

* * *

The board took a recess

* * *

Mr. Heintz: Okay so we're back to section 2.83 Failure to Discharge and the motion that we've been discussing. I guess the question still remains that member Self is concerned that this itself may be a violation of the Charter.

Ms. Self: It doesn't appear to be supported by the Charter. I don't know that we have the authority.

Mr. Heintz: But we do have the authority to propose revisions to –

Ms. Self: You can (inaudible) but I'm just looking at the Charter.

Mr. Heintz: Well in the charter I know the numbering is different, you pointed out, is that we have the authority to propose revisions to the Code of Ethics and this is a revision to the Code of Ethics. As long as they're not inconsistent with the Charter and...if the Charter is silent on the topic, silent on this particular point, then that doesn't make it inconsistent with the Charter.

Ms. Self: I would suggest that we get a legal opinion from the Corporation Counsel to determine whether this proposed amendment to the Code, Section 2-83 Failure to Discharge whether that proposed amendment to the Code is consistent with the Charter.

Mr. Heintz: Can I make a friendly amendment, lets do that and let's also at the same time ask for their opinion whether section 2-84 appearance of fairness is consistent with the charter. In other words, both of these things. If we're gonna ask the for legal advice, lets ask for legal advice about both my section 2-83 and 2-84.

Ms. Frenz: If I could ask a question, so that a full and appropriate legal opinion can be in fact rendered on the amendments as written, when you indicate second line of 2-83 Failure to Discharge, inaction, non-performance or omission of action. Do we have definitions for what inaction, non-performance or omission actually means as in partial action, is it complete non-action, complete non-performance and complete omission or does partial, would a partial action, performance or partial completion of the job render somebody not subject to this provision. If I could just make sure I understand exactly what's intended?

Mr. Heintz: If you want you can add partial performance. But...

Ms. Frenz: Cause this reads, I just wanna make sure I understand so I can again provide an appropriate response. Is the idea here that someone who does not in totality complete the duties of their job description for example, so in otherwards someone who partially does their job would not be subject to this provision? I just wanna make sure, cause this reads as though they do not act, they do not perform but that a partial would theoretically exempt them from any alleged violation of this section if that makes sense.

Ms. Self: So now you're suggesting that the Board of Ethics interpret what somebody's job is? The Planning Director, the Director of Public Works, the Mayor, the council members?

Ms. Nakanishi: I would submit that failure to partially not do your job, you can't really (inaudible...). You either do it or you don't?

Ms. Self: Sometimes it's not that simple.

Mr. Heintz: Let's leave it the way it is and let's let them deal with that.

Ms. Frenz: Well it'll be me, so that's why I'm trying to get some guidance because we don't have definitions listed for inaction, non-performance or omission. So in order to appropriately answer and render that opinion I need to fully understand the intent. So this would be a complete inaction, non-performance such as the position description, classification specifications for a particular position, have a list of what's expected. So that would mean an employee for example would have done absolutely none of those items. Not one, or two, but none of them for this to be applicable. I just want to make sure so that I can render an appropriate decision. Or opinion, for the board.

Mr. Heintz: I mean what I'm trying to get at is you're not doing your job if you avoid, if you don't face it, something's called for and you don't do it. Cody we can talk about this further later. I think.

Ms. Frenz: So, but I do need that guidance just so that I know Chair, is that the intent. So can...at least so we have that clear on the record. Because it sounds like we're gonna need to continue this either way? Or is there gonna be a vote today?

Mr. Heintz: What I wanted to do was vote on Amy's issue, that is, that we seek legal counsel opinion about whether either section 2-83 or 2-84 as proposed here on my changes or additions are in violation of the Charter and that's what the question is. And I'd like to leave the language exactly as it is.

Ms. Frenz: Okay.

Mr. Heintz: So I guess Amy if that's right. Your motion was or suggestion was, that 2.83 be checked, we'll get legal counsel to tell us...

Ms. Self: Whether it's consistent with the Charter.

Mr. Heintz: And the same for 2-84. So any further discussion about seeking legal counsel's...hearing none, all those in favor of the request to the legal counsel...Motion passed.

Motion and Vote: Mr. Self moved to seek legal counsel on whether 2-83 and 2-84 are consistent with the Charter. Mr. Heintz seconded the motion. All members voted aye. (11:15 a.m.)

- Mr. Heintz: And with regard to section iii, revision of the oath of office. That will have to be dealt with separately and we'll see if Cody will be able to lean on County Council members or someone to carry this water, to carry this suggestion. I mean it's an enrichment of the Oath of Office to add that when you're employed or elected in the County of Hawai'i that, you are also gonna uphold the Charter...
- Ms. Frenz: Just to clarify Chair, when you mentioned my need to find a council member to introduce, are we talking regarding the previous County code sections that are being amended or are we talking...
- Mr. Heintz: We're only talking about my third one, revisions of the Oath of Office. So we're gonna hope that the revisions to the Oath of Office, someone on the County Council will say, this is something that I'll pick up and carry.
- Ms. Frenz: So do we have a motion to approve section iii, revisions to the oath of office as currently drafted. Right now we've only dealt with 2-83 and 2-84 where as I understand it where that currently stands is the board is seeking a legal opinion from Corporation Counsel, myself, as to whether or not those two modifications as listed on the agenda are consistent with the Hawai'i County Charter. We need to address the Oath of Office separately. So maybe we wanna turn there? And have a motion to approve your section iii Revisions to the Oath of office as drafted on the agenda? So we can see where that one stands...
- Mr. Heintz: Right. Okay so we can do it that way. I move that the revision of the Oath of Office as stated on the agenda be approved by the Board of Ethics and which means then that we will see if we can get someone to amend the Charter and maybe we'll be us, but I'm hoping that somebody else will pick this up and make that revision.
- Ms. Self: The only way you can amend the Charter is either when it's not a year when the Charter Commission is doing their thing. They don't always operate. You can submit it to the Council and get someone on the Council to introduce a Charter amendment or you can submit it to the Charter Commission, I don't know if the Charter Commission is in session this year or...
- Ms. Frenz: They've already met. We'd be waiting...

Ms. Self: So you have to send it to the Counsel.

Mr. Heintz: Right that's just what I was trying to suggest we do. So that's what we're gonna do okay? If we pass this then we will send it to the County Council with a note indicated that we are urging the County Council to deal with it. All those in favor?

Ms. Frenz: We need a second Chair. On that motion to approve the revised oath of office as listed on the agenda.

Mr. Heintz: Do we have a second?

Ms. Self: And this is to be sent to a council member?

Mr. Heintz: The County Council.

Ms. Nakanishi: So what is the motion, I'm sorry.

Mr. Heintz: The motion is, that we send the County Council, the revision of the Oath of Office, that we have on our agenda, the revision that you have before you, that simply adds to the oath and the Charter of the County of Hawai'i. So in other words a person is solemnly swearing or affirming that they will support and defend the constitution, of the United States of America, the Constitution of the State of Hawai'i, and the addition is "and the charter of the County of Hawai'i".

Ms. Nakanishi: Okay.

Ms. Frenz: Is there a second?

Ms. Nakanishi: I second.

Mr. Heintz: All those in favor?

Ms. Frenz: Sorry, any discussion?

Mr. Heintz: Any discussion? All those in favor?

Motion and Vote: Mr. Heintz moved approve and send the revision of the Oath of Office to the County Council for introduction. Ms. Nakanishi seconded All members voted aye. (11:21 a.m.)

Motion and Vote: Ms. Self moved go into executive session. Ms. Nakanishi seconded the motion. All members voted aye. (11:21 a.m.)

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The board entered executive session. (11:24 a.m.)
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7. EXECUTIVE SESSION

- a. Review of the Executive Session minutes of December 6, 2021
- b. 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.

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The board returned from executive session. (11:25 a.m.)
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Ms. Frenz: Just one thing.

Mr. Wiseman: Yes.

Ms. Frenz: If everyone could look just briefly, I believe we need to make one correction to the executive session, one update. In addition to the date, if everyone could take a look at the motion and the vote. I believe it should be the motion is to return to regular session, not executive session. So if the board is okay we'll make that typographical correction as well?

Mr. Wiseman: Yes, so the motion will be corrected to reflect that we're returning to regular session.

Ms. Frenz: Thank you. Go ahead chair, thank you.

Mr. Wiseman: Okay we're back in regular session.

Motion and Vote: Mr. Heintz moved go into adopt the executive session minutes of December 6, 2021. Mr. Wiseman seconded the motion. All members voted aye. (11:26 a.m.)

8. ANNOUNCEMENTS (11:27 a.m.)

Mr. Wiseman announced that the next meeting will be held on Wednesday, March 16, 2022, at 10:00 a.m. at the Hawai'i County Building, Council Chambers, 25 Aupuni Street, Hilo, Hawai'i 96720.

9. ADJOURNMENT (11:28)

Motion and Vote: Ms. Self moved to adjourn the meeting. Ms. Nakanishi seconded the motion. All members voted aye. (11:28 a.m.)

Mr. Wiseman adjourned the meeting at 11:28 a.m.

Respectfully submitted:

Liza Osorio, Secretary