

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

Wednesday, May 10, 2023

10:02 a.m. – 1:56 p.m.

Hawai‘i County Building

25 Aupuni Street

County Council Chambers

Hilo, Hawai‘i 96720

Members and Staff Present:

Rachel Short, Chair

Erick Allende, Vice Chair

Christopher Ho, Member

Paul Paiva, Member

Sarah Gibbon, Member

Denise Nakanishi, Member

Sylvia Wan, Deputy Corporation Counsel

Sinclair Salas-Ferguson, Deputy Corporation Counsel

Kelsie Chang, Secretary

1. CALL TO ORDER (10:02 a.m.)

Ms. Short called the meeting to order at 10:02 a.m. Present were Rachel Short, Erick Allende, Christopher Ho, Paul Paiva, Denise Nakanishi, Sarah Gibbon, Sylvia Wan, Sinclair Salas-Ferguson and Kelsie Chang.

2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS (10:03 a.m.)

Ms. Short: At this time, I believe we’re ready to move into statements from the public. We did receive one written testimony; I’ll go ahead and call first. Did everyone on the board receive this written testimony? Can we...would we like to take a few moments to review this testimony at this time? Can I have a motion?

Ms. Nakanishi: This is...this one?

Ms. Wan: Yes. Why don’t you just give them a few moments.

Ms. Short: We’ll just take a few moments at this time if everyone could please review this email from Kelsie. Once the board has felt that they’ve reviewed this, if you could just look over at me, let me know. Denise, do you feel that you’ve had time to review?

Ms. Nakanishi: Yeah...yeah.

Ms. Short: Okay, perfect.

Ms. Wan: So, you can move on then.

Ms. Short: Okay. Uh so at this time, we will move onto statements from the public on agenda items. Do we have people here to testify and give statements today?

Ms. Wan: Uh chair, it doesn't appear that anyone signed up for otherwise public testimony in this matter.

Ms. Short: Okay.

Ms. Wan: I will note, however, there may be other witnesses for other petitions once we get there.

Ms. Short: Okay, perfect. So, at this time, we'll move on to the approval of the regular session minutes from April 14, 2023.

3. APPROVAL OF THE REGULAR SESSION MINUTES (10:06 a.m.)

a. Approval of the regular session minutes of April 14, 2023.

Ms. Short: Did everyone on the board have a chance to review the minutes from last month's meeting? Would someone like to make a motion to approve or any changes to those minutes at this time?

Mr. Ho: Chris Ho, move to approve.

Mr. Allende: Second.

Ms. Short: All in favor? Aye. Any opposed? Thank you...I don't know how that turned off. No opposition, seeing none, and all voting in favor. The approval of the regular session minutes of April 14, 2023, passes.

Motion and Vote: Mr. Ho moved to approve minutes from April 14, 2023; Mr. Allende seconded. All members voted aye. (10:06 a.m.)

Ms. Short: At this time, we'll move onto unfinished business, Petition 2023-02, a review of a complaint regarding a County Officer of the Leeward Planning Commission, alleging violation of Section 2-83 (Fair Treatment) of the Ethics Code.

4. UNFINISHED BUSINESS (10:07 a.m.)

- a. Petition 2023-02: Review of a complaint regarding a County Officer of the Leeward Planning commission, alleging violation of Section 2-83 (Fair Treatment) of the Ethics Code.

Ms. Short: Has everyone had a chance to review this petition?

Mr. Allende: Yes, or I have.

Ms. Wan: And then the other would-be um...to watch the link.

Ms. Short: Okay. Has everyone had a chance to watch the video from this petition?

Ms. Nakanishi: Yes...yes.

Ms. Short: Would someone like to make a motion in regards to this matter at this time?

Ms. Wan: Or like to ask any other questions.

Ms. Short: Or like to ask any other questions of our petitioners or our respondents? I believe we have two [inaudible...] via zoom and one in person. Do we have any further questions for either of them?

Ms. Wan: Seeing none.

Ms. Short: Seeing none. Would someone like to make a motion regarding this matter at this time? We're on petition 2023-02. Again, as a reminder, this is negative statements regarding public comments to the Leeward Planning commission.

Ms. Nakanishi: I'd like to make a motion that the petition be dismissed.

Ms. Gibbon: I would second that.

Ms. Short: At this time, we'll take a vote. All in favor of dismissing this petition. Aye. Any opposition? Why does my mic keep turning off? Any opposition? Seeing none. The motion to dismiss petition 2023-02 regarding a complaint regarding a County Officer of the Leeward Planning commission is officially dismissed. Thank you all for your attention to this matter.

Motion and Vote: Ms. Nakanishi moved to dismiss Petition 2023-02. Ms. Gibbon seconded the motion. All members voted aye. (10:08 a.m.)

Ms. Short: So, our next item to be called is Petition 2023-04, a review of a complaint regarding a County Officer of the Police commission, alleging violation of Section 2-83 (Fair Treatment) of the Ethics Code. Is there any public testimony for this agenda item at this time?

Ms. Wan: I'm sorry, uh chair...just to kind of butt in for a second. I will note that as Deputy Corporation Counsel, um not only do I represent the Board of Ethics, but I also represent the Hawai'i Police Department and for this matter 2023-04 and 2023-07, I'm sorry 06.

Ms. Short: Yes.

Ms. Wan: 06, I would be recusing myself as um a representative because I represent the Hawai'i Police Department and it's between a Hawai'i Police Department employee as well as a police commission commissioner. Um, my understanding is...is that we we're gonna try to move these two petitions.

Ms. Short: That's what I was doing.

Ms. Wan: Okay.

Ms. Short: Right now. I'm gonna try to get a motion for us to hear them both.

Ms. Wan: Well not...no I meant to um...

Ms. Short: To combine um?

Ms. Wan: To call...um at a little later. So, um I'm sorry, because I would have to recuse myself and...and...and Counsel would have to step in for me, what I'm asking is, if the board would entertain instead...

Ms. Short: 05 and 06.

Ms. Wan: 05 and 06 out of order.

Ms. Short: Would everyone....

Ms. Wan: I'm sorry 05 and 07 out of order.

Ms. Short: Would everyone on the board be okay with tabling 04 and 06 now so Sylvia can recuse herself and we'll move onto Petition 2023-05? Do we need a motion, or can they just make eye contact with me?

Ms. Wan: You can just call it out of order.

Ms. Short: At this time, I'm going to call it out of order, Petition 2023-05, a review of a Petition from a County Employee seeking an Informal Advisory Opinion regarding a potential conflict of interest.

5. NEW BUSINESS (10:12 a.m.)

a. Petition 2023-05: Review of a Petition from a County Employee seeking an Informal Advisory Opinion regarding a potential conflict of interest.

Ms. Short: Did everyone on the board have a chance to review Petition 2023-05?

Ms. Nakanishi: Yes.

Ms. Wan: At this...Deputy Corporation Counsel Sylvia Wan, at this point I just want to alert the board that the petitioner in this particular petition has requested a closed hearing.

Ms. Short: Okay.

Ms. Wan: Um so, at this point you may want to question the petitioner regarding the reasons for the closed hearing and then decide whether or not this hearing should be closed.

Ms. Short: Is the petitioner present?

Petitioner 2023-05: Good Morning, this is Petitioner 2023-05 appearing via zoom.

Ms. Short: We can't see her...can we...

Ms. Chang: Well don't we have to [Inaudible...]

Ms. Wan: Not yet.

Ms. Chang: Okay.

Ms. Short: There we go. Good morning Ms. Wong, thank you for being here with us this morning.

Ms. Wong: Thank you.

Ms. Short: Could you explain your reason for requesting a closed hearing regarding this matter?

Petitioner 2023-05: Um, I was under the impression since it's an employment matter, I could request for a closed hearing and the petition gave that option and so I elected to choose a closed hearing.

Ms. Short: So, at this time, we as a board um...someone can make a motion regarding whether or not we would like to honor her request for a closed hearing.

Mr. Allende: I move...I motion to move into a closed hearing to hear Petition 2023-05.

Ms. Short: Would someone like to second Erick's motion?

Ms. Nakanishi: I'll second.

Ms. Short: All in favor? Aye.

Mr. Ho: Uh, I have a question.

Ms. Short: Please.

Mr. Ho: Um, is this...in the past has this been past practice for this very specific type?

Ms. Wan: Uh, so...Deputy Corporation Counsel Sylvia Wan, this is within the rules of the Board of Ethics, and it is um for personal matters and that is exactly what she's referring to.

Mr. Ho: Thank you.

Ms. Wan: So, this falls directly within the rules.

Ms. Short: So, let's try the vote again. All in favor, aye. Hearing no opposition, uh at this time, we will honor this request and move into a closed hearing on Petition 2023-05. Right?

Ms. Wan: That's fine. I'm sorry your honor...uh chair.

Ms. Short: You can call me your honor.

Ms. Wan: I have a question as to who initially moved, was it Erick?

Ms. Short: Erick did.

Ms. Wan: And who was the second?

Ms. Short: Denise.

Ms. Wan: Thank you...thank you Chair.

Ms. Short: Thank you.

Motion and Vote: Mr. Allende moved to enter closed hearing to hear Petition 2023-05; Ms. Nakanishi seconded the motion. All members voted aye (10:12 a.m.)

Motion and Vote: Mr. Ho moved to return back into open session; Mr. Allende seconded the motion. All members voted aye. (10:35 a.m.)

Ms. Wan: And just as a...just as a reminder, um now that we're in open session, please do not mention the petitioner's name. As that is confidential.

Ms. Short: Yes. Okay. So, we're just making the motion again?

Ms. Wan: Yup.

Ms. Short: Will give everyone a chance to get seated. Thank you for rejoining us, everyone.

Ms. Wan: Denise.

Ms. Short: Denise at this time, would you like to state your motion regarding petition 2023-05.

Ms. Nakanishi: I move that we find no conflict of interest involved in this petition.

Ms. Short: Do I have a second?

Ms. Gibbon: I'll second.

Ms. Short: Sarah seconds. At this time, we will vote. All in favor, aye.

Ms. Wan: No...no. Discussion.

Ms. Short: Oh...Oh, any discussion to be had? Nope. At this time, we will vote, all in favor, aye. Seeing and hearing no opposition, the petition 2023-05, the board approves to find that there is no conflict of interest in this matter. Thank you so much for your time petitioner.

Motion and Vote: Ms. Nakanishi moved to find there is no conflict of interest regarding Petition 2023-05; Ms. Gibbon seconded the motion. All members voted aye. (10:36 a.m.)

b. Petition 2023-07: Review of a Petition from a County Officer seeking clearance and guidance regarding a potential conflict of interest.

Ms. Short: At this time, we will move on out of order to Petition 2023-07, a review of a petition from a County Officer seeking clearance and guidance regarding a potential conflict of interest. Has everyone on the board had a chance to review this petition?

Ms. Wan: Uh, Deputy Corporation Counsel Sylvia Wan. Just as a note to the board, this particular petitioner has also requested a closed hearing.

Ms. Short: Okay. At this time, would someone like to motion to move us into a closed hearing?

Ms. Nakanishi: Haha. So, moved. Which one we hearing, sorry.

Ms. Short: 2023-07. This one Denise. Denise.

Ms. Nakanishi: Yes.

Ms. Short: There you go. Will someone motion to move us into a closed session for 2023-07.

Ms. Wan: Yes.

Ms. Short: Denise motion.

Mr. Ho: And I second.

Ms. Short: And Chris seconds. At this time, we will vote. All in favor, aye. Hearing and seeing. Stop turning off. Hearing and seeing no opposition, Wednesday, May 10th, 10:38 a.m. we are officially in closed session. Sorry to everyone who came out and has to go back in again. We have one person still here. Sir, I'm going to have to ask you to step out.

Ms. Wan: No, he's with us.

Ms. Short: Oh, he's with your office. Never mind. Sorry. Thank you.

Motion and Vote: Ms. Nakanishi moved to enter closed hearing to hear Petition 2023-07; Mr. Ho seconded the motion. All members voted aye (10:38 a.m.)

Motion and Vote: Mr. Ho moved to return back into open session; Mr. Allende seconded the motion. All members voted aye. (10:50 a.m.)

- Mr. Allende: So, can we make a motion now or do we have to wait till everybody's in?
- Ms. Wan: I just asked for the board's patience while we open the meeting back up. Are we? It appears that we're open.
- Ms. Short: So, at this time, would someone on our board like to make a motion regarding petition 2023-07?
- Ms. Gibbon: I'll make a motion but I'm not quite sure how to phrase um but, that we find that there's no conflict of interest.
- Ms. Short: I would like to amend the motion. I feel that we have set the precedent of recusing when.
- Ms. Wan: Okay, sorry.
- Ms. Short: Isn't this discussion cause there's a motion on the table?
- Ms. Wan: Not quite.
- Ms. Short: Cause someone has to second it.
- Ms. Wan: Yes, we have to have a motion, second, and then after that, we can talk about amending.
- Ms. Short: Amending the motion, okay. Does someone want to second Sarah's motion to find that there is no conflict here?
- Mr. Ho: Chris Ho, second.
- Ms. Short: So, at this time, any discussion? I have discussion. Um, I would like to amend that motion, I do feel like us as the Board of Ethics has good...done a good job of setting the precedent of the whole reason Ms. Namahoe's here which is to eliminate gray area right and make things safer sometimes than they should be. I think that it would be appropriate to amend this motion to say that we find there is no conflict but in Ms. Namahoe's best interest, she does recuse herself when it's time to vote regarding County Council members' salaries.

Mr. Ho: Point of order, you cannot do that.

Ms. Short: Why not?

Mr. Ho: The motion itself needs to be pertinent to what is on hand, which is the request from the individual to seek guidance. It's outside of really our jurisdiction um to put any caveats onto that. That particular person is saying can I please have some guidance on this particular very specific thing.

Ms. Short: The...the...we've passed a motion previously with this.

Ms. Wan: Well...

Ms. Short: That Erick referenced right? Like when we found the guy...Please.

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. So, um it is the board's responsibility to interpret the code of ethics and the code that we're looking at right now specifically, is um section 2-8...2-82 which...

Ms. Short: Mmhmm...

Ms. Wan: Defines immediate family members um and I would think also um, 2-84 would probably also be referenced by extension and so, you have to look at what the code says. As far as...is there a conflict of interest? That is your question one. So, right now that's the motion that's on the floor. So, the motion...the amendment that your suggesting is counter to what the motion is on the floor. It's a different motion.

Ms. Short: Explain that again. Make that...

Ms. Wan: So right now, the motion on the floor is there is no conflict of interest.

Ms. Short: Mmhmm....

Ms. Wan: You're saying there is no conflict of interest if she recuses herself which is contradictory to the finding of no conflict-of-interest cause, the no conflict of interest is a uh interpretation of the code.

Ms. Short: Okay. So, as we have this discuss I guess, does anyone else on the board see where I'm coming from? Would that....I don't know if that's the right way to say it or...

Mr. Ho: If I may...

Ms. Short: Because I see a potential...I see no conflict at this time, but I see potential conflict, but we can't really rule on the potential conflict.

Ms. Wan: Yeah but...but the conflict is within...it is within the code. So, she's relating the conflict related to a particular family member. Is that particular family member uh grounds for conflict within the code?

Ms. Short: Okay.

Mr. Ho: If I may, with regards to precedent, yes precedent was set not necessarily specific to this particular code number section. Um, so whatever's been done ahead of time can be looked at in the future as this is what was already done. We can't...we shouldn't...

Ms. Short: Right.

Mr. Ho: Try to insert that into something else, cause then we make assumptions that it's going to be there in the future. So, my suggestion, take it one day at a time, one case at a time and just move forward.

Mr. Allende: I don't think there's a...a...the same because the one that we had...the case that we had before...

Ms. Short: Mmhmm...

Mr. Allende: The gentleman was...I don't think there was a...a...a conflict quite the same [Inaudible] was before because that gentleman was working under the person.

Ms. Short: That's right.

Mr. Allende: That would be...

Ms. Short: It wasn't family.

Mr. Allende: Yeah.

Ms. Short: Okay.

Mr. Allende: He was the employment. So, the...that previous case was a little bit different. Because that's why he was recused because we we're referring to the fact that...that could be...

Ms. Short: He was his boss. Yep. Okay.

Mr. Allende: Yeah.

Ms. Short: That's right. So, at this time, let's vote on the motion to find that there is no conflict of interest regarding petition 2023-07. All in favor, aye. Hearing no. Hearing and seeing no opposition, this board finds that in regards to petition 2023-07, there is no conflict of interest. Thank you so much Ms. Namahoe. I appreciate your time.

Motion and Vote: Ms. Gibbon moved to find there is no conflict of interest regarding Petition 2023-07; Mr. Ho seconded the motion. All members voted aye. (10:56 a.m.)

Petitioner 2023-07: Thank you for your time, aloha!

Ms. Short: Aloha.

Mr. Allende: Aloha.

Ms. Wan: You accidentally said her name.

Ms. Short: Oh sorry. Sorry to have said your name.

Ms. Wan: Okay.

Ms. Short: Oops.

Ms. Wan: Okay. Don't say it again.

Ms. Short: At this time...

Mr. Ho: May I ask a question?

Ms. Short: Recess?

Mr. Ho: No.

Ms. Short: Okay.

Mr. Ho: Um, with regards to the petitioner, when we're in here and their face is being projected inside of the room, is that something that in the future we need to make sure gets turned off since we're not saying their name?

Ms. Wan: This is why we needed to close the curtains, here.

Ms. Short: So, they couldn't see her name.

Ms. Wan: Yeah. So, that was a mistake.

Mr. Ho: Right, but when the curtain re-opened, I could see her across from me and on that screen.

Ms. Wan: Yeah.

Mr. Ho: Her name is still on there. So, would we...

Ms. Wan: That was...

Mr. Ho: Once that opens, we shut off the public's ability to see that individual's face and name since we're technically not supposed to be saying their name.

Ms. Wan: Yeah, that may be a good call. I don't know if it's required but, it would be a good call because if she was here in person, she would still be here in person.

Ms. Short: Right.

Ms. Wan: We can't like black her out in person.

Mr. Ho: Right.

Ms. Wan: She chose to...she had chose to come by zoom.

Mr. Ho: Okay.

Ms. Wan: That was her preference, the name appearance, that was also her preference. That...that wasn't decided by us.

Mr. Ho: Okay. No, I...I'm just tryna understand the difference between not vocalizing the person's name but still showing the individual.

Ms. Wan: Well, this...that recording is not...that's not how we're recording. So, if someone was attending by zoom, yes, they could see her but, it's not...this recording's not available to the public. Like the...the visual is not available to the public.

Ms. Chang: Well, nobody's in the zoom, it's closed.

Mr. Ho: Right. Sorry, let me try to see if I can...

Ms. Wan: So, um you know what, let me...

Ms. Short: He's basically saying.

Mr. Ho: Cause why don't...why don't we say the name?

Ms. Wan: We...we're talking process right now.

Mr. Ho: Oh okay.

Ms. Short: Yeah. We need to...

Ms. Wan: And um we can talk process outside of the meeting cause we are now off agenda.

Ms. Short: At 11:00 a.m. I would like to make a motion to take a brief recess before we hear our other two petitions. Would someone like to second that motion?

Mr. Ho: I'd second it, but can you define brief?

Ms. Short: Five minutes.

Mr. Ho: Thank you.

Ms. Short: So, you second my five-minute motion?

Mr. Ho: I do now.

Ms. Short: Let's...all in...Let's vote, all in favor, aye. Uh seeing no...and hearing no opposition, at 11:00 a.m. Wednesday, May 10th, this board is in recess we will resume at 11:05 a.m. thank you.

RECESS (11:00 a.m. to 11:09 a.m.)

Ms. Short: Can we bring everyone in, and we'll convene.

Mr. Salas-Ferguson: Make an affirmative finding that it's closed.

Ms. Short: So, can I resume our meeting?

Mr. Allende: No.

Mr. Salas-Ferguson: Yeah, let's wait till...

Ms. Short: We gotta wait till they come in.

Mr. Salas-Ferguson: So, currently the Board of Ethics is in open session. In order for the Board of Ethics to go into close session, the board has to make a definitive finding that the matter being presented involves personal information that affects the privacy of the respondent. So, um with that being said, we can go ahead and resume the agenda.

c. Petition 2023-04: Review of a complaint regarding a County Officer of the Police Commission, alleging violation of Section 2-83 (Fair Treatment) of the Ethics Code.

Ms. Short: Chair Rachel Short, at 11:09 a.m. on Wednesday, May 10th, we reconvene the Hawai'i County Board of Ethics. At this time, we will be calling petition 2023-04. It is my understanding this petitioner has requested a closed petition. Would someone like to...or closed hearing excuse me. Would anyone on the board like to motion to close this hearing or at this time can we hear the reason for that?

Mr. Salas-Ferguson: So, Chair, first let's ask if there's any public testimony for this item.

Ms. Short: Okay. Perfect. At this time, is there any public testimony for agenda item #5A petition 2023-04?

Mr. Salas-Ferguson: Seeing none. Public testimony is closed.

Ms. Short: Seeing none. Public testimony is now closed. Um, will the petitioner and respondent please come to the table and identify themselves. That would be petitioner Kenneth Quiocho, I hope I'm saying that correctly, and respondent Anthony Sur. Please come to the table and identify yourselves.

Mr. Quiocho: My name is Kenneth Quiocho.

Ms. Short: Thank you so much.

Mr. Quiocho: Petitioner.

Mr. Sur: Anthony Sur, respondent.

Ms. Short: Under the Board of Ethics rule 4 petition 2023-04, as a request by a third party for an Informal Advisory Opinion, therefore, under Hawai'i codes, Section 2-86, subsection B, and Board of Ethics rule 1.15B and rule 4.13, the board may hear this request in closed session if the board makes an affirmative finding upon request by respondent Anthony Sur, that the hearing concerns personal matters that affect his privacy. Mr. Sur, are you requesting that this matter be heard in closed session, or would you like to proceed in open session?

Mr. Sur: I'm fine with open.

Mr. Salas-Ferguson: Skip to 11.

Ms. Short: Mr. Quioco, as the petitioner, we will start with you. Please provide a summary of your petition and anything else you believe is relevant. You'll have five minutes and please state your name before testifying.

Mr. Quioco: Uh my name is Kenneth Quioco and I've already submitted a written uh complaint regarding Anthony.

Mr. Salas-Ferguson: Mr. Quioco, can you press your um microphone button. Is it on?

Mr. Quioco: It's red. Does it need to be green?

Mr. Salas-Ferguson: Oh.

Ms. Short: Could you move your microphone a little closer.

Mr. Quioco: Can you hear me now?

Ms. Short: Perfect.

Mr. Quioco: Okay.

Ms. Short: If you could please begin again, we'll start the five minutes again.

Mr. Quioco: My name is Kenneth Quioco and I'm the petitioner, I filed a complaint against Anthony Sur that sits on the Police Commission. Um, I've already provided written testimony regarding it. It's very simple. It's the behavior and it's the language and that's what I'm concerned about. That's pretty much it.

Ms. Short: Do you have anything further to say regarding this matter or your petition?

Mr. Quioco: Um, I'd like to have it in closed session but if you feel it needs to be in open I...I...you know I...I think that I'm a police officer, this guy sits on the commission, I...I don't think something that needs to be aired. That's my personal opinion.

Mr. Salas-Ferguson: Uh, Deputy Corporation Counsel Sinclair Salas-Ferguson, the rules allow a respondent to request the closed session if it involves matters of um personal matters that affect the privacy of that individual. So, that right rests with the respondent Sur as the County Official involved in the petition, the respondent and he asked that it be in open so, we will continue in open.

Ms. Short: Okay. So, at this time, Mr. Sur, it's your opportunity to provide an oral response to the petition. Please state your name and [Inaudible] with your response, you'll have five minutes.

Mr. Sur: Uh, Anthony Sur, I have uh submitted a lengthy uh response since his original complaint about my behavior, had a whole bunch of other stuff attached to that and uh I'm not too sure you know what your thoughts are. You want me to go through the whole thing again or it's quite lengthy you know, it's more than five minutes but uh in terms of...let...let me just go after the initial thing that I...I thought he shoulda complained about was...was his accusation of my behavior. We had a meeting going on in the Police Commission at the West Hawai'i Council Chambers. I was asking questions of the new Chief regarding the shooting requirements for the concealed carry license, and I shoot gun, let's be frank about that but, I'm not a far right person okay but uh...uh my...I would say my...my things I look for in...in the commission have always been safety and follow the rules okay and unfortunately having been on the commission I guess this is my

third or fourth year uh...that's not an easy thing to do okay. And although we hire and fire, they...they give us answers and never have to expound on you know what's happened to a case okay. That...that's where it goes. So, we were just having a back and forth questioning on...on this thing and it was my opinion and not only mine but of gun instructors that there's certain parts of the shooting requirement that are dangerous okay. There's a quick draw and fire which everybody here that I've respect and people in the mainland say you know it's uncalled for so, I am not too sure why he got upset other than me referring to it as a stupid test which I think it is stupid and uh for civilians anyway. So, we...we weren't having a bad discussion with the Chief back and forth and his explanation that he asked a question is not true, he stood up in the back of the room, started yelling at me okay now, we have some history in this, and you guys are all privy to that. He yelled at me, and I felt like I was gonna yell back at em. The previous episode we had was on the phone and I had mentioned it to Paul Ferreira who was Chief at that time and I told him you know this is not a official complaint but you had just made this guy a major and there were some other captains I thought I worked with who I thought were better people but he made em a major so you know I said I'm giving you information and you handle this guy. I've been working with them since 1986 and uh never had any problems okay. So, it came down to he yelled, I yelled back at em, he went out the door, I went after him after we called a recess and I yelled at him again in the hallway. And basically, what I told him was "you want to yell at me, yell at me in front of everybody here, you did it last time on the phone, I'm not gonna put up with it now with all the witnesses around", and that's where it ended okay. I come back home, I get called by different people in the Departments saying they had heard about this situation and other people saying you know, he's probably going to file an ethics charge against you. I said OKAY file you know, let em file, I have nothing to hide. You know, I'm an open book man and so uh I have worked with em since 86, you have my...my background in terms of what I do. I told Harry Kim when got appointed to this thing that, it was...

Ms. Short:

Two minutes.

Mr. Sur: Okay. That it was a job that I was gonna take seriously although I got sick last year, had me in Seattle in four months. I missed only 1 meeting. I...I try to ask questions based on my background that I think are you know are...are...are good questions. He accuses me of asking hard questions. I...so I guess I'm supposed to be asking easy questions and uh you know; I don't have much more to say. I think you know I explained it in the response and unless you have questions for me on that uh, but I had a witness here. He had to leave early, Tom Brown and he submitted something in there as to what had happened and uh you know that's where it ends you know.

Ms. Short: Thank you for your statement. At this time, does anyone of our board have questions for the parties before us? Take it away Chris.

Mr. Ho: Um, Chris Ho, I have a question with regards to um what transpired at the commission meeting. Is my understanding, correct me if I'm wrong, most meetings are um recorded, visually. On that date, is there any um video evidence that shows what transpired during that in-person commission meeting.

Mr. Sur: The video...the recording I had requested that it be preserved because what came up in our last meeting was the uh the minutes and his statement was referred to as uh you know asking a question or something. He...he might've been asking a question, but he wasn't just asking, he was yelling it out at me okay. So, when I was talking to the chief, I go like who...you know what is this and then I go what...what do you...you know interrupting us for? But I had asked that...that recording be preserved but I had Tom Brown who submitted his testimony there, I could bring in the other Chairman and uh I didn't feel it was necessary at this time that uh...but it's supposedly available and I don't know if you can hear em in the background because the mics are out in the front and the Kona Council Chambers has really weird audio. I don't know if you guys may have noticed that and uh you know I...I've got the witnesses there. There were other two Assistant Chiefs, there was the Chief who did yell back at em and said "stop" and then he yelled something and then we started getting into it and uh the Corporation Counsel was there. There was an OPS sergeant there and there was a one citizen there uh who's a gun instructor

who witnessed the whole thing too okay. So, you know, like I said, I have the one witnesses account if you need more you know you guys can go...go after if you want.

Mr. Ho: Thank you.

Ms. Short: Um, board at this time I want to make you aware that there is a 45 second audio recording that Corporation Counsel has for us if we would like to hear that at this time. Personally, I think we would like to hear that.

Mr. Allende: Yes, please.

Mr. Ho: I would very much like to.

Ms. Nakanishi: Yes.

Ms. Short: Seeing that everyone on the board would like...

Mr. Salas-Ferguson: Ask if any of the parties have objection to...

Ms. Short: Do either parties have an objection to us playing this recording?

Mr. Quiocho: I don't.

Ms. Short: Okay. So, at this time, uh the board unanimously agreeing that we would like to hear this recording. We would request that Deputy Corporation Counsel play the recording for us.

Mr. Salas-Ferguson: Take a recess so we can set it up...

Ms. Short: If we could take a three-minute recess? 11:21 a.m. I motion to take a three-minute recess so we can access the audio recording. We will reconvene at 11:24 a.m., would someone like to second my motion?

Mr. Allende: Second, please.

Ms. Short: All in favor, aye. Seeing no opposition at 11:21 a.m., this board is in recess. We will reconvene at 11:24 a.m. to hear the audio recording. Thank you very much.

RECESS (11:21 a.m. to 11:24 a.m.)

Ms. Short: 11:24 a.m. the Hawai'i Board of Ethics is officially back in session. We are hearing um petition 2023-04 at this time and we will resume with the audio recording of the meeting.

Mr. Salas-Ferguson: Cliff could you...thank you for getting that clip and could you please go ahead and play it and um just want to uh let everybody know that the clip is not very clear, so, it is what it is and let's go ahead and play it Cliff, thank you.

****LISTENING TO AUDIO RECORDING****

Ms. Short: Could...can we play that one more time and try and move the mic just a little bit closer? If that's okay.

Mr. Victorine: Okay. Cliff Victorine, Corporation Counsel, just so we understand, um the mics a lot of times were not being turned on while they were having the meeting. Um, the Corporation Counsel would consistently remind them that they needed to turn the mics on. So, not only were the mics in the front but they weren't turned on at...a lot of the time. So, it's really soft um and that's about as...I have everything turned up to its loudest volume right now so...

Ms. Short: Okay. Can we...

Mr. Victorine: I can put the mic a little closer and try but...

Ms. Short: Can we move the mic a little closer and hear it one more time.

Mr. Victorine: Yeah, but just so we know, it...it is very soft.

Ms. Short: Okay.

Mr. Allende: And...and before we...um you play that, may I ask...does the...was there uh...uh to um uh Quiocho, does somebody still refer to you as Major or is that somebody else at the end of the...the recording?

Mr. Quiocho: I don't know who they're referring to as Major, I'm not a major, I'm an Assistant Chief.

Mr. Allende: Totally understand, I just was just curious at that very end that's all I was...cause you hear somebody at the end say Major. So, I didn't know if that was.

Mr. Quioco: Yeah, it's...it's not...it's not to me. I mean, when we started to talk back and forth, the chief basically went like that and I just...I stopped talking already. Um, and the reason why I even said anything is because of the comment that was made about whether or not he thought any of our police officers could pass the pistol course. So, I was telling him that that's our annual pistol course. I was standing in the very back of the room, so I didn't have a mic. So, I...I...

Mr. Allende: Vocalized...

Mr. Quioco: Yeah, I...I spoke a little bit louder than a normal tone because I was in the very back of the room. Um, I didn't get out of my chair, I just sat there and said "what are you talking about" because his [Inaudible] was going back and forth and it was not productive because the Chief had already given him his concern. His concern was whether or not somebody could do another pistol course and still get a concealed carry permit, and the chief explained to him, yes. If you have another NRA instructor that signs off on a pistol course, whatever that guy chooses to do to show that you're proficient and you can carry the firearm, I will sign off on it. But it just...the argument just kept going and going and it's not the first time he's called into question whether or not our officers can qualify with the pistol course and that's what upset me.

Mr. Allende: No, I totally can um see where that can be the case. But I just wanted a...some clarification on that and I thank you very much.

Mr. Quioco: Okay.

Mr. Ho: May I...

Ms. Short: So, at this time...

Mr. Ho: May I also ask for some clarification? With regards to the um the sound bite, can someone who was present maybe, Corporation Counsel kind of tell me who is saying what...

Ms. Short: Yes.

Mr. Ho: Where...cause I hear a lot of voices, a lot of words but, I have no clue at all as to whose saying what and when.

Ms. Short: Thank you, Chris.

Ms. Frenz: Good morning again. Deputy Corporation Counsel Cody Frenz, also attorney for the Police Commission. There was....so I...I agree within limitations, so, the...in the recording you will hear commissioner Sur having a dialogue with the chief of police who was in the front desk in the West Hawai'i Civic Center. I don't believe commissioner Sur's microphone was on which is why it is some what a little harder to hear. Uh you hear discussion between him and the chief of police and then when you hear the raised voice saying, "what are you talking about", that is um AC Quiocho, assistant chief Quiocho. That is assistant chief Quiocho and then it gets a little harder to decipher because they continue to talk over each other and go back and forth arguing. When you hear "hey...hey...hey...stop...stop...stop", that is the chief of police. He had turned and motioned to AC Quiocho who was in the back of the room, telling him to stop. He also looked at commissioner Sur trying to get some sense of DE quorum while our chair of the police commission is then using the gavel at the same time. And the continue...the...the discussion, the dialogue continues actually after that point. So, at that point it's hard...I know...I know the voices right. I know AC Quiocho's voice, I know commissioner Sur. So, it's a little easier for me but that is the dialogue if that helps.

Mr. Ho: It...

Ms. Short: So...

Mr. Ho: It does um....follow up if I may.

Ms. Short: Please.

Mr. Ho: Um, is it protocol to allow non-commission members to speak out in the middle of a commission meeting?

Ms. Frenz: It's bad form for DE quorum purposes. That's just the reality right, and I'm not saying that in a way to be specifically a dig at AC Quiocho. I think the appropriate mechanism would have been, he would like to address the commission. I mean his chief was handling it right. His chief was at the desk so, maybe in a perfect world going forward, you know, high and sight is 20/20, uh it would be proper to approach, ask for permission to speak to the commission and then say I'd like to address that point for example. But uh DE quorum purposes, even in County Council hearings

here, no one is allowed to start you know kind of yelling or responding from the back in which ever tone they you know they...they thought appropriate at the time but, you always ask to approach and then ask to speak right. That's the reality for DE quorum purposes.

Ms. Short: Chair Short speaking now. My question is, would it be appropriate or allowed to hear the recording one more time and then listen to the recording one more time after that with Corporation Counsel interjecting to tell us who's speaking where?

Mr. Salas-Ferguson: So, just to be clear under Board of Ethics rule 4.8, the board has the authority to request additional information when they deem it necessary and may also authorize its staff to request information on its behalf. So, um I think its fine if the board um wants that additional information. I think uh assistant chief Quioco also explained that it was um...he gave his version of what the recording displays. Um Mr. Sur are you in agreement with the voices being heard in that recording? Being that it's a conversation with Ms. Uh Dakota Frenz just said that...

Mr. Sur: I agree with what she just said.

Mr. Salas-Ferguson: Okay. And...and...and uh assistant chief Quioco, do you agree with that um I guess [inaudible] of who was talking in the video, in the recording?

Mr. Quioco: Do I agree with?

Mr. Salas-Ferguson: What uh Ms. Frenz said who was talking in that recording.

Mr. Quioco: Yeah, of course.

Mr. Salas-Ferguson: Yeah, okay....okay so, I mean do you have any further questions, I think it was stated on the record that there was a conversation between the um chief and commission member Sur and then the voice...

Mr. Victorine: If...if I may say something...

Mr. Salas-Ferguson: Go ahead.

Mr. Victorine: Real quick uh Sinclair, uh just for the records because they were off mic, both parties to your questions [inaudible] in an affirmative response.

Mr. Salas-Ferguson: Right so, for the record both parties agree that um the voices as described by Ms. Frenz are the voices on the recording. Um, do any of the commissioners have a question as to who the voices are in the recording?

Ms. Nakanishi: Not at this time but I think we need to watch it again.

Ms. Short: Yeah.

Mr. Salas-Ferguson: For sure.

Ms. Short: I think that we...Let's listen to it one more time and then possibly you can identify, and we can pause in the middle, and you can say who's who.

Ms. Frenz: Sure.

Ms. Short: If that would be acceptable and the board thinks that would be appropriate. So, at this time, we will ask that you turn it up as loud as possible, get that mic up on the speaker and we'll listen to that recording again please.

Mr. Victorine: Here we go.

****LISTENING TO AUDIO RECORDING****

Ms. Short: Does anyone have questions or would like to play it...I personally um would find it helpful if as we're listening to the recording, you could identify who's voices...

Mr. Salas-Ferguson: So, pause it.

Ms. Short: Pause it. Yeah, and identify that's who's speaking there, that's who's speaking there. Would the board agree that...that would be helpful?

Mr. Allende: Yes, please.

Ms. Short: Okay. So, at this time, that's what we'll do if you're okay with that Ms. Frenz. So, you could just point...just pause. So, at this time, we'll listen to the recording again with you identifying whose voice is who's.

Ms. Frenz: Sure.

Ms. Short: Thank you.

****LISTENING TO AUDIO RECORDING****

Ms. Frenz: Tony Sur.

Ms. Frenz: AC Quioco.

Ms. Frenz: Tony Sur.

Ms. Frenz: Quioco.

Ms. Frenz: That's the chief of police saying "hey...hey...hey...hey". That's a chief of police.

Ms. Short: Okay.

Ms. Frenz: That's chair Brown.

Ms. Frenz: Gentleman continuing.

Ms. Short: In the background.

Ms. Frenz: Correct.

Ms. Frenz: That's chair Brown.

Ms. Frenz: That's the chief of police saying, "are we done?".

Ms. Short: Okay.

Ms. Frenz: And then he says, "thank you", not "major". "Thank you" at the end.

Ms. Short: Thank you.

Mr. Salas-Ferguson: Any questions about the recording?

Ms. Short: Yeah. Are there any other questions from the board regarding the recording?

Ms. Nakanishi: Not regarding the um recording specifically but I would kind of like to have um assistant chief Quioco restate his complaint without historical facts in there. Um it seems like we got a lot of history going on here and I'm trying to sort out what really happened just at the meeting.

Ms. Short: Are we finished with the recording at this time board? Yes, we are.

Mr. Salas-Ferguson: Thank you very much Cliff Victorino for preparing that.

Ms. Short: Thank you very much. So, at this time, I believe that we've asked a question upon you if you would like to respond to Denise's question.

Mr. Quioco: I'm sorry what was your...your question.

Ms. Nakanishi: I just would like for you to restate your complaint just and focus on what happened at that meeting not the historical stuff about the previous complaint and...

Mr. Quioco: Well just that the chief had already kind of agreed to what Mr. Sur wanted. Mr. Sur's already admitted that he's a gun guy. He didn't like the pistol course. He didn't like the policy that the Police Department wrote. Um it's unfortunate that we've all agreed that when you have four police chiefs in four different counties, applying a law that is statewide, it's very difficult because everybody's gonna have a different opinion about it. So, as they were talking about it, the chief had already solidified that if you don't like our pistol course, no problem. It was an example; you don't have to use it. He started citing words like may and should and Mr. Sur said Well now you're playing with words and the chief had just got done telling him that, he will sign off on a concealed gun permit by an NRA certified instructor with whatever pistol course they want to use. And then Mr. Sur started talking about our pistol course and basically saying he doubted that in a nutshell that other police officers in our department would be able to pass it. And that's not the first time he's said that. He's said that previously. And it upset me the first time he said it, and it upset me more the second time. I'll admit, I was not happy with that comment because that tells me one or two things, one either he thinks we're passing people who shouldn't be qualified to carry firearms or two, he doesn't think that Police Department can adequately protect people. And maybe those...those are wrong assumptions on my part but that's what went...that's what went through my head. So, as the conversation is continuing, I basically ask him what are you talking about cause we're not...it's...it's non sense already. He's already...the chief has already agreed that he's gonna give you what you want so, why are we having this conversation and the pistol course that you're...you're criticizing is the one that we qualify on annually. And...and it erupted into whatever it erupted into but, you know...its....The asshole part is

not in...in the video recording. The asshole apart when I was walking away after this situation took place is not on the recording. Him confronting me and blocking my way to leave the room was...is not in the recording you know. And...and he's...he's basically saying that he did all of that but that my report is inaccurate and that my integrity is in question. He took...I say he took eight steps, and he says he took six steps. You know, I'm not gonna get into that kind of stuff. It's...it's what he said and what he did afterwards and the language, is what...was upsetting to me because I don't...I wouldn't have done that and I...I'm tired of listening to him sit up as a Police Commissioner and constantly criticize our department. Especially the officers that do everything they can to keep people safe. I just couldn't listen to it anymore and I've been listening to it for quite some time. When other chairmen were there, they kind of so to speak kept him in check. He wasn't really as vocal. But as soon as some of the other chairs came in and...and we ended up with a different police chief, interim chiefs, all of a sudden, he started getting a little bit more vocal.

Ms. Short: So, Mr. Quioco, I would ask um you to state clearly for the board specifically what conduct violated the Ethics Code to fair and ethical treatment.

Mr. Quioco: What conduct did he display?

Ms. Short: Yeah.

Mr. Quioco: Him calling me an asshole. His blocking my way to leave the room and him calling me an asshole again when I was walking away. That's the conduct.

Mr. Salas-Ferguson: You can ask respondent to...if he has a response to anything that was said.

Ms. Short: Mr. Sur do you have any response to anything that's been said?

Mr. Sur: I stand by uh Tom Brown's account, that I did not stand in his way. He exited the room. If you know the Council Chambers, I'm way far back. He's by the door. He went out the door. And I will admit, outside, I may have called him an asshole but according to the dictionary, that maybe a vulgar term but it's not profanity. And I stand by its definition okay but, uh he interrupted me okay and he goes on this past history about my behavior. My...my...my you...you guys can investigate it, you can talk to Burch, you can talk to the present chairman, Tom Brown was the past chairman.

I've...I've had no problems with them. I may ask hard questions because if you know my background by what I've written in there, I'm...I'm probably the only guy that's come across other than a retired cop or police officer that has some idea as to what they do. They tell me something on the Big Island, I call the guys in the mainland to find out how it's really done. Unfortunately, you know that's kind of the way it is. Uh I think his attitude started to manifest itself just...just now. Uh, doesn't like what I ask well that's tough you know, that's my job. Uh, you got another letter there from retired captain I've worked with for over twenty years in CID. Uh, I can be direct but that's my job you know. When I'm...when I'm working on bodies or plane crashes, I have a job to do okay and I...I work the same way in the commission. Uh, I'm not gonna...I'm not just along for the ride okay now, there is some people and maybe even on your committee that come along for the ride. But there are certain things in the Police Department here that...that you know need to be done and all I've tried to do is see that they enforce the laws, it be consistent in doing that and that has been a difficult job okay. And uh, you know he may not like the way I do things but uh all I can say is at that meeting, we did not have a bad discussion with the chief and myself. And uh, then he decided to interrupt it because he didn't like what I was saying. One thing to...he admits that...that's the course that the police shoot. I've had commanders below him call me up and go this is ridiculous. You are not police....

Ms. Short: Yeah...Yeah. Mr. Sur, I will stop you cause it's not the course that's at issue here, it's your conduct. And my question for you, is calling someone an asshole courteous?

Mr. Sur: No, but is it profanity?

Ms. Short: That wasn't the question. The code states courteous, fair, and impartial manner. You just acknowledged that it's not courteous.

Mr. Sur: I acknowledged calling him an asshole outside after the meeting. If you go back and listen to what I just said, I said I called him an asshole outside.

Ms. Short: But you even just acknowledged that calling someone an asshole is not courteous. And that you did call him an asshole.

Mr. Sur: And the meeting was over. Tom...Tom Brown had recessed us; we went outside okay. That's totally different. Now if you're talking what's in the room, you're talking outside, I'm saying

outside I admitted to calling him an asshole outside of the room. Now, you talk to your Corporation Counsel there okay.

Mr. Allende: I'm just kind of curious about does...just in that regards, I don't think your position as a police commissioner stops at the door just because the gavel is rung. So, you know, as you want to make that um definition between inside and outside, we gotta remember we...what...what title we carry wherever we go in that regards.

Ms. Short: If the Mayor calls me an asshole outside the door of our Board of Ethics meeting, he's still calling me an asshole, correct?

Mr. Sur: You can take it as far as you want, okay. I just stand by what I just said OKAY. It's not profanity you know. I've heard the cops used a lot more. They're cops twenty-four hours a day but okay just leave it at that.

Ms. Short: But...but you are acknowledging that you called him an asshole following that meeting and that it is not courteous to call someone an asshole. Is that correct? You've made both those statements on the record.

Mr. Sur: [Inaudible...mic was off]

Ms. Short: We'll move on from that question. Does anyone else on the board have questions for our petitioner or respondent?

Ms. Gibbon: I just wanted to clarify.

Ms. Short: Sarah, please.

Ms. Gibbon: I believe in the complaint um Mr. Quiocho you said that there was um...that actually the first comment was while the session...well the meeting was still in session. Is that correct? The first asshole comment.

Mr. Quiocho: Well, I thought the meeting was still in session because he was still in a seated position. Um, Tom Brown was you know hitting the gavel to try to I guess call the meeting to order pretty much you know stop already. Um, and he was still seated when he made the comment. It's not caught on the recording, but I mean I heard it. There were a lot of witnesses there that heard I too. I'm sure you'd interview them; they would acknowledge that they heard it also but...

Ms. Gibbon: Thank you.

Ms. Short: Corporation Counsel, would like to give us a reminder of the legal standard at this time and then Erick, I know you have something to say.

Mr. Salas-Ferguson: Thank you Chair. Just a quick reminder so, the code of ethics requires that the board uh shall liberally construe to promote high standards of ethical conduct in county government. So, the code of ethics is to be liberally construed. So, that's the principle you're operating under, and I just want to read the section that's being alleged here and its section 2-83, fair treatment and correct me if I'm wrong assistant Quiocho, I believe your um compliant is alleging a violation of subsection 3 and I'll read it and correct me if I'm wrong if it's a different subsection that you're alleging. And I'll read it here for the record, officers and employees of the county while discharging their duties and dealing with the public, shall adhere to the following [Inaudible], all persons shall be treated in a courteous, fair, and impartial manner and just want to confirm assistant chief Quiocho, that is the provision you're alleging was violated by Mr. Sur.

Mr. Quiocho: That's correct. That's correct.

Mr. Salas-Ferguson: Okay, thank you. Thank you chair.

Ms. Short: Thank you Corporation Counsel. Erick, if you would like to continue with your question.

Mr. Allende: Um, I'll save it for...in...in a minute.

Ms. Short: Denise, please.

Ms. Nakanishi: I have the highest regard for Dr. Sur and...but my southern soul says that is a...that's a curse word and I'm a retired army major. I spent thirteen years, over thirteen years on active duty with three thousand guys and me. They didn't use that word in front of me, they didn't use the f word in front of me, if they did one of my sergeants would correct them. I don't care if they were the general in charge of the base or who they were. It's...it's just in...in that...it's just not a proper thing to call people but, I do see where you could be um agitated and call people that but...I...I can't even get it to come out of my mouth so.

Ms. Short: Chris.

Mr. Ho: Alright um, where to start my question. Um, so relooking specifically at one individualized incident in which a word that I'm not going to say out of respect for my neighbor here um was stated or are we looking at a history of something like this that has brought us to this point where it's now a mass this huge ordeal of all of this behavior continuously boiling and boiling and boiling and finally getting to the point where someone has submitted something about it.

Ms. Short: It's my understanding Corp Counsel correct me if I'm wrong, that we are only focused on what the petition alleges.

Mr. Salas-Ferguson: Yeah. So, my understanding of the complaint is that um assistant chief Quiocho is alleging that Mr. Sur violated the Code of Ethics at that meeting based on the conduct that Mr. Quiocho just stated earlier. The...the words used, um also I believe you stated that there was um some physical conduct by Mr. Sur that Mr. Quiocho believes also violated that provision. So, we're looking at just that time frame. We're not looking at the past as I understand it. Is that correct, assistant chief Quiocho?

Mr. Quiocho: That's correct.

Mr. Salas-Ferguson: Okay, thank you. Does that answer your question?

Mr. Ho: It does, thank you very much. So, with that being stated, I find it difficult for myself um to look at this particular provision that's being um referenced, all person um shall be treated in a courteous, fair, and impartial manner. Well, yes, I do believe that is the case and probably should happen not even probably, should occur at all instances of a duly appointed or elected individual. Where looking at one specific instance in here. As a teacher, I have to look at that one particular instance for that student and did something occur that got them to that point to where they exhibited, or um acted out in a fashion that warranted me to have a conversation with them or at least submit them to an administrator for disciplinary action. Here, we...to me it's a lot of he said he said type of things going on. Um, without going into like a huge full-blown investigation and calling witnesses and having this drawn out, is that really where we're wanting to go?

Ms. Short: I believe it's our duty as the Board of Ethics to listen to the complaint that the petitioner has made regarding this one instance to find whether or not Mr. Sur...

Mr. Salas-Ferguson: Conduct.

Ms. Short: Conduct sorry...his conduct that day during this particular instance he was treated in a courteous, fair, and impartial manner. History does not matter is my understanding. We cannot take that into account at all. It's this one particular instance, whether or not the code was violated.

Mr. Ho: Okay. Then as a board member, I would like to request that we have Tom Brown, I believe that was the gentleman's name, um come in and submit...I want to hear...

Ms. Short: Oral testimony.

Mr. Ho: And talk to this particular individual. I would also request that um the police chief come in as well since he was at the table. If that is even possible. I don't know if that's.

Mr. Salas-Ferguson: I think um under rule 4.8, um the board can request additional information so, um the staff could request um Mr. Brown and the police chief um to come in and provide additional information if it would help them in their decision.

Mr. Allende: Very much I believe.

Ms. Short: I agree with that.

Mr. Ho: Is there...

Ms. Nakanishi: So, are we hearing the other petition? They're cross petitions.

Ms. Short: We haven't gotten there yet; we're still hearing the first one.

Ms. Nakanishi: No, I mean but it does seem appropriate that we just go ahead and hear both of um at once and I don't know.

Ms. Short: So, then at this time I believe someone would have to motion for us to table this petition until we can hear from the two people that the board has requested to hear from. Is that correct, Corp Counsel?

Mr. Salas-Ferguson: Yeah, so um I think you can make a motion to defer this to the next hearing to um obtain additional information and then we can move onto the next one.

Ms. Short: So, would someone like to make that motion?

Mr. Ho: I have a question. Uh, with regard to Corp Counsel with regards to this. Um, are we needing this meeting to state which individuals we would like to hear from before we defer, or do we defer and then give you a listing of individuals that we would like to hear from?

Mr. Salas-Ferguson: So, I...It's already on the record that the board would like to hear from Mr. Brown and the police chief. Is that correct? Is there anyone else the board would like to hear from?

Mr. Allende: Um, can we ask Cody Frenz since she was there since she's here today if we can have more questions with her since that's uh seems like the only witness that was there so that way maybe we wouldn't have to do it later on.

Mr. Salas-Ferguson: If the board decides to do that, the board can do that.

Ms. Short: So, at this time would we like to hear Ms. Frenz...

Mr. Allende: Yes, please.

Ms. Short: Witness and testimony. Ms. Frenz, if you could please come have a seat.

Mr. Salas-Ferguson: So, this will be questioning from the board.

Ms. Short: Okay. So, at this time, we would invite um Ms. Frenz, Corp Counsel who was present that day to come forward so that the board can ask her questions regarding this petition.

Mr. Salas-Ferguson: And also, I would like to state that um if Mr. Sur or Mr. Quiocho um you know after the board is finishing questioning Ms. Frenz, if Mr. Quiocho and Mr. Sur have anything that they'd like to add or...or clarify or oppose or object to um will give them that opportunity.

Ms. Short: Thank you. So, at this time, who has questions for Corp Counsel before us?

Mr. Allende: Hello.

Ms. Frenz: Morning, again.

Mr. Allende: Would you just like replay kind of what you saw and remember happening at the...the that meeting.

Ms. Frenz:

Sure. And, I'll just say at the [Inaudible], I'm gonna give you my unbiased witness perspective because I have no aligns to either the commissioner or assistant chief Quiocho. So, uh what occurred was in fact as both gentlemen have in fact relayed here this morning, there was an ongoing conversation with commissioner Sur and the chief about the qualifications. Uh, Mr. Sur did in fact make a comment that upset assistant chief Quiocho. It is in fact the second time that comment had been made and it was questioning whether or not some of the current officers on the police departments staff could in fact pass that test themselves. That's when assistant chief Quiocho began spouting off frankly from the back about "What are you talking about" we do this every single...every single year. He was...he was clearly offended and I kinda get that too. Uh it did escalate quite quickly. Uh between the dialogue with the two men yelling at each other quite frankly. It is what it is right, I'm not gonna sugar coat it. They began yelling at each other, one from the back of the room, one from the front of the room. At one point uh the chief did attempt to turn, motion to both men which is when you hear him "hey...hey...hey...stop...stop...stop", he was facing assistant chief Quiocho, he also turned to the commissioner trying to get both men under control and uh that's when you hear the chief and the chair is trying to again, also gather and...and maintain some DE quorum uh in that hearing. Eventually the gavel is...is hit and the chief is saying "are we done here?". He was very upset. He was looking at me, "are we done here". I said, "that's fine chief, let's take a recess", right. So, hoping that everyone would gather themselves during that recess uh that's when the gavel was hit, we took a recess and...and according to proper protocols that's when the recording is stopped, which is why it stops there. So, I do agree, you know, there has been conversation about what occurred after that gavel was stopped and I at no point heard the word A...the A word. Uh, board member Nakanishi I won't say it either. I never heard it, but I also was not...did not immediately follow the two gentlemen outside. What did occur after the...the hitting of the gavel was a dialogue kind of continued quite frankly so, uh assistant chief Quiocho approached towards the front, I did see him with a smirk on his face. Commissioner Sur saw it, I'm sure. Uh I was watching it and it happened just like that quite frankly. Uh the dialogue continued. Assistant chief Quiocho was talking with the chief of police, commissioner Sur kind of continued speaking on his end and I noticed uh as assistant chief Quiocho walked towards the back of the room, commissioner Sur then walked around if you visualize the back. So, in...in this case, he walked around and started...and was continuing to speak in a dissatisfied tone. I'll choose my words carefully because

interpretation is...is you know everyone's got their own right how they interpreted it. He was not pleased, and he was continuing to speak to assistant chief Quioco about yelling at him. "If you want to yell at me", so as commissioner Sur has already indicated here this morning, "If you want to yell at me, you can yell at me in my face, you can yell at me outside". That dialogue continued, I did see assistant chief Quioco turn and look at all of us in somewhat a bewildered look. Surprised that that was that ongoing dialogue was continuing. Commissioner Sur did in fact approach uh assistant chief Quioco, came within I don't know, I'm not...I wasn't there to measure. Uh within maybe five feet and then took one additional step forward to assistant chief Quioco. Assistant chief Quioco raised his hand to him and yelled "get back, back away from me", something along those lines. Commissioner Sur immediately stepped back and said, and they were having this dialogue while it was commissioner speaking to assistant chief Quioco, "you've yelled at me before, you want to yell at me again, you can yell at me in my face, let's go outside". I'm not going to interpret that, what that...he meant by that, those are the words that he used to the best of my recollection. I recall the assistant chief turning and looking at us and then huffed outside very upset. Commissioner Sur followed him outside. We were all still up on Council's chambers because it again, happened within thirty seconds to a minute of that gavel being hit for the recess to be called. None of the other police personnel there did anything. Everyone was pretty surprised that it con...you know kind of happened that quickly. Uh, I did eventually go outside and uh assistant chief Quioco was already gone, assistant chief Basque was already gone. There was assistant chief Burian and the chief of police. There was a detective inside, and all of my other board members uh commissioners were still inside. Commissioner Sur then immediately went into the bathroom. Commissioner Sur came out there after and uh had a conversation with the chief of police saying you know that there's this longer standing issue between the two gentlemen. We talk about history, there is history between the two gentlemen. I won't comment on that now because that's not a part of assistant chief Quioco's complaint, it's a part of commissioner Sur's for which I'm also a witness to. As to an aspect that he raises there. So, I won't comment there and only will if in fact this board wants to hear about that. But that's my recollection of having sat there, that's what occurred.

Ms. Short:

Thank you very much for your statement...for your testimony. Chris, if you have questions, please.

Mr. Ho: New to commission world so, can you explain to me briefly, what exactly does a police commissioner do?

Ms. Frenz: There's actually a lot. Their biggest task which they just went through was the hiring and selecting of a chief of police. So, we just finalized that process. So, the commission as a body, hires and or removes the chief of police. They then affirm whatever, whoever, whatever Deputy Chief the chief of police selects. Uh, in this case, they also...they get chiefs report. So, at the beginning...at the outset of every meeting in fact, we were in Kona on Friday, yet again for commission, they listen to the chief's report that includes number of accidents, traffic accidents, robberies, violent crimes, they get kind of a recap of all things going on statistic wise. They get a recap about vacancies, overtime usage, how the department is run. They are able to provide input and seek guidance and dialogue with the police department about policies, separate and apart from things that they'd like to see you know, they can't intercede with SHOPO related bargaining unit agreements. They investigate complaints, so the police commission also hears complaints. So, civilian's complaints against a police officer, chief of police, whomever it maybe, those are heard in executive session. Uh and they decide whether or not to dismiss it, sort of as this board does. They want to uh refer it for maybe training customer service with the chief of police that they think somebody maybe could've done better next time, you know to use it as a model for better practices or they could have it investigated which gets referred to their office of professional standards opts within the police department for further investigations. So, they also do that in executive session. Uh, and they do provide dialogue and feedback to the chief of police. They have a lot of discretion quite frankly within the police department as long as it doesn't affect SHOPO.

Mr. Ho: Thank you. Um, so would it be a fair assessment to say that a commissioner's role is to ask questions directed towards individuals that are sitting at the table in front of them. Um that quite frankly maybe difficult to hear. Um, questions that maybe coming from um a person who's outside of the realm of that actual police officer position.

Ms. Frenz: Absolutely.

Mr. Ho: Thank you.

Ms. Frenz: And I...just say...I would say that the chief of police when going through the selection process, his...one of his big things was

transparency. You know, being able to have the difficult conversations and...and answer the difficult questions. And while they were having a dialogue, and commissioner Sur did feel as though the chief was maybe being somewhat of a politician with his answers regarding the conceal carry class and permitting, etc. I mean that's the way it goes right. I mean as the chief of police, you have to answer those questions.

Ms. Short: Thank you very much.

Mr. Salas-Ferguson: Any other questions?

Ms. Short: Any other questions? Denise.

Ms. Nakanishi: Uh. My...my um I don't think it's for Dakota, it was more for Dr. Sur.

Ms. Short: Dr. Sur, will you please come back up so we can ask you a question.

Mr. Sur: Yes mam.

Ms. Short: Denise, thank you.

Ms. Nakanishi: So, I'm...I'm trying not cross these complaints but they...they do overlap. So, you're comp....you're contingent is that he was...his comments were unprovoked, and he should not have interjected into the conversation. Is that the basis of basically, your complaint?

Mr. Sur: Right, considering he's upper commander in the police, he should know the protocol. He should be well aware of the protocol.

Ms. Short: Mr. Sur, can I pause you for a second. Before we move forward, would someone like to make a motion to consolidate these two complaints so we can hear and respond to both at the same time?

Ms. Nakanishi: Uh...Uh...so moved.

Mr. Ho: Second.

Ms. Short: All in favor, aye. Seeing no opposition and hearing all in favor, the motion so passes that both of these complaints uh petition 2023-04 and petition 2023-06 are here by consolidated and we will hear and question upon both at this time.

Motion and Vote: Ms. Nakanishi moved to consolidate Petition 2023-04 and Petition 2023-06; Mr. Ho seconded the motion. All members voted aye. (12:04 p.m.)

d. Petition 2023-06: Review of a complaint regarding a Police Department employee, alleging violation of Section 2-83 (Fair Treatment) of the Ethics Code.

Ms. Short: Mr. Quiocho, if you could come up, I have a question for you. Mr. Quiocho, without divulging the personal matters you believe will affect your privacy, would you like to request a closed session?

Mr. Quiocho: No.

Ms. Short: No. Okay. So, we'll continue in open session at this time and allow for questions upon both. Chris, thank you.

Mr. Ho: Just need a point of clarification. Um, [Inaudible] towards the ending component of this, and whatever decision is made since they are consolidated, will there be any specific thing that needs to be stated that provides which one gets what?

Mr. Salas-Ferguson: Yeah so, good question, thanks for asking that. So, um by these two matters being consolidated right now the board is in the information gathering stage. So, they're gonna gather all the information for Mr. Quiocho's petition, gather all the information for Mr. Sur's petition, make sure each side has time to respond to each complaint against the person and then the decision for the board to make today is to decide whether or not um, first the first petition, whether or not Mr. Sur's conduct violated the code of ethics. The second question to decide is whether or not um Mr. Quiocho's conduct violated the code of ethics. So, um after the board is finishing gathering the information, um the board has to make a vote on Mr. Quiocho's complaint and then a vote on Mr. Sur's complaint. Does that answer your question?

Mr. Ho: It does, thank you very much.

Mr. Salas-Ferguson: You're welcome.

Ms. Short: So, I just want to clarify since we are um combining the petition. Mr. Sur, you are also in fact alleging in petition 2023-06 that officer Quiocho violated article 15 section 2-83, fair treatment that officers and employees while discharging their duties and dealing with the public shall adhere to the following precepts and all persons shall be treated in a courteous, fair, and impartial manner. Is that correct?

Mr. Sur: Correct.

Ms. Short: Thank you. At this time, we'll continue with questions and clarifications. Denise.

Ms. Nakanishi: So, on um assistant chief Quioco, do you feel like you um...your actions were appropriate and you um handled or you treated the commissioner in a fair manner and respectful manner?

Mr. Quioco: I mean in hindsight; I probably shouldn't have said anything. I should have just kept my mouth shut. Um, I did that the last time and then chief Bugado and I were having a conversation after the meeting, and I was expressing to him how upset I was over the comment, and he told me you need to say something because that's the forum to say something. And it didn't come up when I was sitting at the table, given the chiefs report, it came up when I was sitting in the back of the room and I...I guess when I heard it again it just um upset me, and I ended up unfortunately following that advice and saying what I said. So, I...I do regret it and I apologize for the outburst.

Ms. Nakanishi: So, you know back in my mind I think about the clean hands doctrine and you one person is not clean, the other person is not clean, and they're both complaining against each other and we're do we go from there and I...I think your...you know that you just need to apologize and stay clear of each other and do better next time. I hate to have an ethics complaint finding against either one of you but.

Ms. Short: Mr. Sur, I would ask you to um state for the board verbally, specifically, um how you feel you were not treated in a courteous, fair, and impartial manner by officer Quioco.

Mr. Sur: Oh, it's basically his interruption in the meeting which I think is a formal meeting that the assistant chief of police should be well aware of what the protocol is. It would be like someone in a trial, somebody in the backroom yelling at the judge and uh you know it uh I guess we could have it a freefall all the time but uh in response to uh Ms. Nakanishi's comment, uh this wouldn't have happened on my part okay. I would've just let it go by, but he decided to file, and you know that's how it...it revolved around. I...you know, someone had asked me, you know can we just squash this thing. I said, yeah! We could've been big boys, shook hands, but I said you know, now he's taken a fire at me you know, at firing the shell by coming to ethics so I'm gonna have to respond in some way so, uh you know that's where it sits right now you know.

Ms. Nakanishi: So, I...I'm not sure if there's any precedent but is...is there a way the complaints can just be withdrawn, and you guys just go along and if it happens then we got more precedent, but I just think neither one is completely innocent.

Ms. Short: Denise. Corp Counsel.

Mr. Salas-Ferguson: Obviously they can withdraw if they want to.

Ms. Short: They could withdraw if they want to but, us as the board cannot guide them towards that decision.

Ms. Nakanishi: Oh [Inaudible]...

Ms. Short: Officer Quiocho, I would ask at this time if you have any response to what Mr. Sur said? Any further response or comments?

Mr. Quiocho: No.

Ms. Short: Any further questions? Chris, please.

Mr. Ho: Hi there! Um, actually it's not a question for either of you, it's actually a question for your Corp Counsel.

Ms. Frenz: Yes, sir!

Ms. Ho: Is there any point in time within the commission, where a commissioner would be engaged in um discussion or dialogue with um the assistant chief?

Ms. Frenz: Absolutely. In fact, assistant chief Quiocho generally this last month was a little different but, generally he also provides the East Hawai'i...East Hawai'i, right? Area 1? He does the area 1 uh report. So, there is...there is dialogue. He does in fact come up...he had already taken his turn at the table um when this situation unfolded. So, he does every single time. Last month was one exception but he always does.

Ms. Short: So...

Ms. Frenz: And in fact, him, assistant chief Basque, assistant chief Burian, in addition to the chief of police, they all come forward and address the commission as a whole.

Ms. Short: So, my um question just to clarify Chris's question earlier which I think was already asked...answered and asked but maybe you

could just clarify. The commission has hiring, firing, salary, large decision-making authority over officer Quioco's role in the Police Department?

Ms. Frenz: No.

Ms. Short: No.

Ms. Frenz: As to the chief of police.

Ms. Short: Okay.

Ms. Frenz: So, it's only as to the chief of police. Who the chief promotes such as assistant chief Quioco, that's completely within his discretion. That's not to say that they cannot have a conversation with the chief of police about concerns they may have regarding promotions. Promotions are in fact a part of the discussion at our commission hearings as well.

Mr. Salas-Ferguson: Clarify [Inaudible] salary...

Ms. Short: Clarify whether...oh...clarify. Can you...whether...how about his salary.

Ms. Frenz: No. That's actually set pursuant. So, I believe as assistant chief he's considered excluded managerial but he...they...he still has SHOPO. Um, right? SHOPO?

Mr. Quioco: Entitlements.

Ms. Frenz: Entitlements.

Ms. Short: The chief of police.

Ms. Frenz: Yeah, so he's an excluded managerial if I understand correctly. So, no. Let me...let me just be a little more direct. The police commission cannot control assistant chief Quioco's salary at all. The chief...the commission in fact does not even control the police chief's salary.

Ms. Short: Okay.

Ms. Frenz: The commission...so that's you know salary commission, also my assignment, would there after be evaluating one of the other people is the chief of police. The chief's salary, thereafter, sets the Deputy Chief's salary. It's by charter, by rule so, uh the chief of

police's salary will be up for discussion and thereafter, if there was a raise, the Deputy Chief would fall in line and then so on and so fourth down below.

- Ms. Short: Does the police commission influence the police chief and the police department?
- Ms. Frenz: Yes.
- Ms. Short: How much?
- Ms. Frenz: I guess that's up to the chief of police.
- Ms. Short: Okay.
- Ms. Frenz: Right. I mean the reality is that they appoint the chief, they can remove the chief. They're not there to dictate what the chief of police does. They're there to provide feedback, guidance, concerns, suggestions, and ultimately the chief is the head of that department.
- Ms. Short: Right.
- Ms. Frenz: That's his...it's all his kuleana.
- Ms. Short: But the...but the police commission has large influence I'm hearing you say, over the police chief who then has influence over the staffing decisions he makes.
- Ms. Frenz: I think that's really up to...up to the chief of police.
- Ms. Short: Okay.
- Ms. Frenz: What level of influence, if any, right.
- Ms. Short: Right, of course.
- Ms. Frenz: It could very well be that he decides to run his department regardless of the input and feedback from the commission. That's....
- Ms. Short: Of course.
- Ms. Frenz: I think it's subjective to each department head.
- Ms. Short: Okay.

Ms. Frenz: And in this case, the chief of police.

Mr. Salas-Ferguson: And as Ms. Frenz previously stated, they have the power to um...

Ms. Frenz: Remove.

Mr. Salas-Ferguson: Remove. So, it's supervised, discipline, remove.

Ms. Short: Chris.

Ms. Frenz: I think one...you know I think board member Nakanishi has already touched on it and I think maybe all of you are considering it and what I would say for the record whether it's agreed to or not is...is a continued suggestion that maybe these complaints want to be tabled by the complainants and they consider having a discussion outside where they are able to let bygones be bygones, everybody make better choices in the future going forward. No one has clean hands. I think quite frankly, this is a situation when you have two professionals who behave poorly quite frankly in their own capacity in some fashion or another and if they're able to work that out amongst themselves and agree to just remain professional going forward, that would be ideal. But that's really up to the complainants.

Ms. Short: Would...would you guys as the petitioners like to have an opportunity to discuss this outside of this room?

Mr. Quioco: I'm not.

Ms. Short: No.

Ms. Frenz: Okay.

Ms. Short: Okay.

Mr. Ho: Question, Corporation Counsel, um since we are looking at potentially bringing in um two additional individuals, one of which happens to be the supervisor of the individual um the assistant chief here, is there any...would there be any issue with us having that conversation with the police chief about a subordinate and would that kind of infringe on anything?

Mr. Salas-Ferguson: I...I don't...I think as the board's attorney for these matters, this is an informal...this is a request for an informal opinion. Um, I think that you've already heard what happened. I think there's enough

information for the board to make a decision. I don't think it would be fruitful to call in the police chief to discuss anything further or um the other witness that was mentioned earlier. I believe Mr. Brown. Um, these are meant to be informal. The board can make a decision on whether or not the conduct as presented by the parties is a violation of the um code of ethics. That specific provision and I also want to clarify something I said earlier so, for the context...you know context always matters and it's this board. You guys are charged with deciding whether or not the conduct within the context that was provided, the board can consider the context where...for the conduct to decide you know this special set of circumstances does it or does it not violate that specific provision. Does...Is that okay?

Mr. Ho: It does, thank you very much!

Ms. Short: So, I...at this time, um do we have any other questions or would someone like to make a motion because it does not sound like it would be in either of these parties' best interest to call any additional people. Erick, please.

Mr. Allende: Can I make a motion that we go into an executive session to talk with Corporation Counsel about this matter?

Ms. Short: Would someone like to second that motion?

Ms. Gibbon: I'll second.

Mr. Salas-Ferguson: Can um....can you put on the record what the topic is.

Mr. Allende: Repercussions of a...the...the said petitions.

Mr. Salas-Ferguson: So, are you making a motion...

Ms. Short: I believe Erick's making a motion to enter executive session so that we can discuss the repercussions of petitions 2023-04 and 2023-06, is that correct Vice Chair?

Mr. Allende: Correct.

Mr. Salas-Ferguson: So, um the board....let me just...so, we can go into executive session to discuss the board's powers, duties, and privileges, which includes the rules and so the rules provide the procedures for informal opinions. So, um are you requesting that we go in executive session to discuss the rules as they relate to the boards powers?

Mr. Allende: Yes.

Mr. Salas-Ferguson: Okay.

Ms. Short: Can I have a second to that motion?

Ms. Gibbon: Second.

Ms. Short: Sarah's seconds. All in favor, aye. Oh, discussion to be had. Seeing none, all in favor, aye. Hearing and seeing no opposition at 12:19 p.m. now, the Hawai'i County Board of Ethics is officially in executive session.

Mr. Salas-Ferguson: Yup. We're gonna close.

Ms. Short: We'll call you guys back in, thank you for your time.

Motion and Vote: Mr. Allende moved to enter executive session to discuss the board's powers, duties, and privileges, which includes the rules regarding petitions 2023-04 and 2023-06; Ms. Gibbon seconded the motion. All members voted aye (12:19 a.m.)

EXECUTIVE SESSION (12:19 p.m. to 12:31 p.m.)

Motion and Vote: Mr. Ho moved to leave executive session and enter open session. Ms. Gibbon seconded the motion. All members voted aye. (12:31 p.m.)

Ms. Short: Thank you for rejoining us. 12:31 p.m., it's not 12:32 p.m., the Hawai'i County Board of Ethics reconvenes, we are back in open session, and we are continuing our discussion about the consolidated petitions 2023-04, 2023-06 with Anthony Sur and Kenneth Quioco. At this time, I would like to invite the board to...

Mr. Salas-Ferguson: Any further questions.

Ms. Short: Any further questions for either party? Any questions for anyone else who's present? At this time, would someone like to make motion regarding these petitions? Yeah, we'll start with the first one. At this time, would someone like to make a motion regarding petition 2023-24, Kenneth Quioco.

Ms. Chang: 04.

Ms. Short: 04. What did I say?

Ms. Chang: 24.

Ms. Short: Oh, sorry. Would someone like to make a motion regarding petition 2023-04? Chris, someone's gotta do it.

Mr. Ho: Corporation Counsel, what are our options? I wanna make sure I say it correctly.

Mr. Salas-Ferguson: Yeah. So, you can make a motion to dismiss the petition or a motion um to find that a specific conduct on behalf of Mr. Sur violated um the code of ethics and that specific provision 2-83 subsection 3. So, it...it would be helpful if you stated what...if you are moving in favor of finding a violation, state the conduct and then 2-83-3 and if you're moving to dismiss, you're moving to dismiss. And just so you know um, you know, if you make a motion, somebody seconds it, that's your opportunity to discuss it, the motion can be withdrawn, it can go the other way so, you can just make a motion um and basically opens up discussion.

Mr. Ho: Guess I'll get us started. Uh, I move that petition 2023-04...I lost it.

Mr. Salas-Ferguson: Just go ahead and state what you're feeling and then we can help you restate it.

Mr. Ho: Thank you. Um, that um Mr. Sur is in violation of uh section 2-83 um all persons shall be treated in courteous, fair, and impartial manner for behavior exhibited at the meeting pertaining to this petition.

Mr. Salas-Ferguson: So, um, I'm sorry.

Ms. Short: Chris.

Mr. Salas-Ferguson: Commissioner Ho, so, um can you just state the conduct that you believe violated that subsection then I'll restate the motion for you.

Mr. Ho: The usage of the word "asshole".

Mr. Salas-Ferguson: So, let me restate the motion. So, you're making a motion regarding petition 2-0 sorry, you're making a motion regarding petition 2023-04, that petitioner Sur's conduct specifically the use of the word um "a hole", I won't spell it out, violates section 2-83 subsection 3. Is that correct?

Mr. Ho: Yes.

Mr. Salas-Ferguson: Okay.

Ms. Short: I would second that motion.

Mr. Salas-Ferguson: And discussion.

Ms. Short: At this time, I'll invite the board to have a discussion regarding this motion.

Ms. Nakanishi: Sinclair, is he the petitioner on that one?

Mr. Ho: I think he's the respondent.

Ms. Short: No, he's the respondent.

Mr. Salas-Ferguson: Yeah, so...

Ms. Short: This is Mr. Quioco's petition Denise.

Ms. Nakanishi: Yeah, I know.

Ms. Short: Okay.

Mr. Salas-Ferguson: Yeah so, the...the petitioner's request...the petitioner made an allegation that Mr. Sur violated the code of ethics, and then the motion was that um that specific conduct did violate it and so now we're in discussion.

Ms. Short: Sarah, please.

Ms. Gibbon: Um, I think there's a little bit of um disagreement about when that comment was heard and I...I didn't hear it made...I didn't hear it confirmed by a witness. I...it...it sounds though like Mr. Sur um is...is owning up to saying that. Uh maybe not in quite the same context. I...I agree that's uh...would be like the most egregious thing but also, I'm wondering if we should include in the violation the um arguments with somebody you know during the meeting. Especially when the...the chair of the meeting was trying to...to close and call the order.

Ms. Short: Sarah if I can clarify. Are you referring to this petition or to 2023-06.

Ms. Gibbon: Uh 04.

Ms. Short: So, you are saying you believe we should amend the motion to say what? Include more context?

Ms. Gibbon: Just expand the behavior, yeah expand the behavior that we're considering to be discourteous.

Ms. Short: So, specifically what would you refer to because Chris has specified the...him using the language and the term "a hole". I'm hearing that you would like to add...

Ms. Gibbon: I agree with that and that I'm...I would like to add um the um arguments with the...Mr. Quioco or assistant chief Quioco um...uh especially when he was at the...in his position right as a commissioner during the meeting.

Ms. Short: So, just to clarify, you're saying that in addition to the language that he used that Chris is saying, you're saying we should also find that he alleged the code of ethics and was not courteous, impartial, or fair when he was sitting and arguing with Quioco as he was in the back. Correct?

Ms. Gibbon: Yes, that's...that's what I'm saying.

Ms. Short: Okay. So, would that fall under 2023-04 or are we now talking about 06?

Mr. Ho: It's still within the same one.

Ms. Short: I think it's 04.

Mr. Ho: Um, my question would be, are you asking for a friendly amendment, meaning I...I would just say yes...

Ms. Gibbon: Yes.

Mr. Ho: To agreeing to what you're asking me to submit verses going through the whole entire...

Mr. Salas-Ferguson: Yeah, so commissioner Ho, if...if you agree with that you can make a...a motion to amend your motion to include the...that arguing with um assistant chief Quioco also was a violation. So, it's the...the words and the...is that commissioner...yeah, the conduct of arguing with um assistant chief Quioco. Is that...does that capture what you're...what you would like to include?

Ms. Short: Before you agree with that, Chris could I also say that we include um not only the language, the argumentative conduct during the meeting but also, the confrontation that occurred following that meeting?

Mr. Salas-Ferguson: So, why don't uh commissioner Ho, why don't you withdraw your motion, and we'll do another motion.

Ms. Short: Yeah, we'll doctor that up a little bit. Do you want to rephrase it, should Chris rephrase it, do one of us rephrase it? How...

Mr. Salas-Ferguson: Uh, commissioner Ho if you can just state that um he's withdrawing his motion.

Mr. Ho: But I don't want to.

Ms. Nakanishi: Can I say something before he withdrawals and we...

Mr. Ho: I wasn't going to.

Ms. Nakanishi: Yeah, okay...okay.

Mr. Ho: I'm staying in my ground, sorry. Um, I...are we in a discussion component to where I can engage in conversation about this.

Mr. Salas-Ferguson: We're in discussion.

Mr. Ho: Okay, thank you. Um, I see where you're coming from, however, I feel as though that would actually kind of muzzle an individual on a commission to be able to have a disagreement granted, the disagreement was from the commission position to someone in the audience. Do I feel that's appropriate? Absolutely not, 100% that is totally not appropriate. However, that is the discretion and the rationale for a chairperson to exert their authority to make sure that that individual um who is in the commission position does not do that type of thing. So, to me, that would've been the fault of the chairperson for not immediately squashing that potential issue. The component that you had added, I would love for you to add for yourself. Um, I would rather just stick to the one that I have submitted and then you guys can if it's approved as an amendment or as a whatever um then you guys can go through the amendment process. I think just adding more and more on there or trying to put it all together, I couldn't.

Ms. Short: So...

Mr. Salas-Ferguson: You guys can just um vote on the...the [Inaudible] and somebody else can make a motion...

Ms. Short: So, okay. So, let's vote on Chris's motion and then...

Mr. Salas-Ferguson: See if there's discussion.

Ms. Short: See if there's any further discussion and then we'll vote, and we can amend the motion. Scotty, please.

Mr. Paiva: If we can just use the complainant's complaint in section 1 where he says, "I'm filing a complaint regarding the rude and threatening behavior displayed by this commissioner during a recent commission meeting on the 17th".

Mr. Salas-Ferguson: Wait, where is that?

Ms. Short: Number 1, state the nature of your interest including the reason. "I'm filing a complaint regarding the rude and threatening behavior".

Mr. Paiva: I don't know if that's a little cleaner?

Ms. Short: So...

Mr. Paiva: If you are going with what he's complaining...

Ms. Short: I...I think what we need to do at this point, and you can correct me if I'm wrong Corp Counsel is, um Sinclair, is we need to vote on Chris's motion and then either amend his motion or request that he withdraw his motion and we start a whole new one. Is that correct?

Ms. Nakanishi: I need to have it restated too.

Ms. Short: I...um, while we are having discussion on this motion, I...I hear what you're saying regarding the job of the Chair, but the fact is someone's sitting on a commission. If Sarah starts yelling at him, that's not me. She's being courteous....in courteous right there. She's not being fair; she's not being impartial. It's her duty or whoever's sitting on a board or a commission, to uphold themselves to that standard of courteous, fair, and impartial. And if they're yelling at someone or speaking argumentatively, that's not courteous in any capacity and I can't control them as the Chair to make them not do that.

Mr. Ho: And I respectfully understand where you're coming from. Um, I guess it maybe my outside position, not necessarily in the realm of politics as it plays out within commission positions, but from my standpoint, a chair's responsibility is to maintain DE quorum from their board members.

Ms. Short: But at this....

Mr. Ho: But also encourage dialogue but once someone steps to that line or even tries to cross the line, the chair should be immediately hitting the gavel and calling them into session.

Ms. Short: And I think we heard....and I think we heard the chair do that....that day. But the fact is, Mr. Sur was already argumentative and yelling and not speaking courteously as soon Mr. Quiocho yelled from the back of the room.

Mr. Salas-Ferguson: Okay so, um, sorry. Uh can I say something Chair?

Ms. Short: Please.

Mr. Salas-Ferguson: So, what I think we should do is that um commissioner Ho made a motion that...to find that...that word in the usage and the context violated the provision, um I think that we should discuss it and go ahead and vote on that and then if somebody else wants to include other conduct in the informal advisory opinion, um that um they feel violates the code of ethics, they can make a motion and it can second and then it can get discussed and if any of that carries, it'll be added to the opinion.

Ms. Short: So, Chris, at this time, I would ask you to please restate your motion. Roll your eyes at me all you want.

Mr. Ho: I move that petition 2023-04 finds in favor of the...

Mr. Salas-Ferguson: I'll...I'll state it for you.

Mr. Ho: Thank you. I'm not even going to try.

Mr. Salas-Ferguson: Yeah so, that's okay.

Ms. Short: Thank you Sinclair.

Mr. Sala-Ferguson: No worries. Um, give me one second. So, commissioner Ho um I'll restate your motion and tell me if I'm wrong. So, regarding petition 2023-04 commissioner Ho has made a motion that the

conduct that the...the words used by Mr. Sur at the commission meeting and question specifically the word, I'll say it cause it's on the record, "asshole", violates section 2-83 subsection 3.

Mr. Ho: Yes.

Ms. Short: Would someone...

Mr. Paiva: I second.

Ms. Short: At this time, we'll vote, all in favor, aye.

Mr. Ho: Point of order, just so it's on the record, can you also....

Ms. Short: Yeah, oh. Is there any discussion regarding the motion? At this time, we'll vote, all in favor, aye. Hearing no opposition... Hearing and seeing no opposition, um this board finds in the matter of petition 2023-04 that Mr. Sur did in fact violate the Hawai'i County Code of ethics, article 15, section 2-83, subsection A in his use of the language because it is on the word...on the record, the word "asshole".

Motion and Vote: Mr. Ho moved to find that Mr. Sur violates the code of ethics in petition 2023-04. Mr. Paiva seconded the motion. All members voted aye. (12:46 p.m.)

Mr. Salas-Ferguson: Is there any other...Does anyone....

Ms. Short: At this time, I would like to also include...request um that we include in this informal advisory opinion that we also referenced Mr. Sur's conduct in regards to being argumentative um and yelling at Mr. Quioco and then also the conduct that followed regarding the meeting.

Mr. Salas-Ferguson: So, um it would be the yelling and then the pursuing Mr....

Ms. Short: Yeah, it would be the...the yelling and then pursuing Mr. Quioco that I would like to see added to that as well. Would someone like to motion my motion?

Ms. Gibbon: I'll second.

Ms. Short: Any discussion to be had?

Ms. Nakanishi: I...I...I kind...I don't believe that's appropriate to add because we have very little evidence about....Direct evidence about what

happened outside the door other than the admission of that quasi swear word.

Ms. Short: But you would agree that we heard on the recording where he was yelling and being argumentative during the meeting?

Ms. Nakanishi: I...I do believe they both were.

Ms. Short: Right but we're talking about 2023-04 here.

Mr. Ho: I just want to get a point of order um when we engage in conversation and discussion um it definitely is not a time to try to persuade the other commission....

Ms. Short: Of course.

Mr. Ho: Members....

Ms. Short: Of course.

Mr. Ho: One way or the other. Um, I definitely see where this is coming from. Um, I will not in any way, shape or form agree to that um due to the fact that there is very much a lack of evidence um that was presented today that shows in any way, shape or form um other than one person saying something verses another person saying something, you can't....I mean I'm not a lawyer, there's lawyer's in the room, I don't even know if that would hold up in court, one person saying hey they did this and the other person saying hey they did that but, I've got no evidence whatsoever to show that it actually occurred.

Ms. Short: Just to clarify, I'm not trying to persuade anyone in their vote in my position as Chair nor, would I ever um want to do that. I am going based off of the evidence of the audio recording we heard today as well as our firsthand witness testimony who said she did in fact witness him yelling him while in the seat and then approaching him afterwards. So, to me that is more than sufficient evidence to add that amendment, considering we heard that on the recording and then we also did have a firsthand eyewitness account who confirmed both those things.

Mr. Salas-Ferguson: May I also say something?

Ms. Short: Please.

Mr. Salas-Ferguson: And uh...so, um board rule 1.7, it's entitled rules of evidence so, this board is not bound by the strict rules of evidence which would govern a court proceeding. But even in a court proceeding, um even if it's just one individual saying something, you can take that as evidence you know, you...you factor in their credibility. Um, so if some of the board members believe that Mr. Quiocho was stating the truth, that is evidence to be considered.

Ms. Short: And from my perspective, not just Mr. Quiocho's account, but also Corporation Counsel who was present that day and gave us her witness testimony.

Ms. Nakanishi: We have the...uh the motion re-read please.

Ms. Short: Could you restate the motion that I made or?

Mr. Salas-Ferguson: Yes.

Ms. Short: Thank you.

Mr. Salas-Ferguson: I'll restate the motion that uh Chair Short made and Chair Short's motion as I understand is it that um, she would like to add to the informal opinion that Mr. Sur's conduct specifically yelling and then pursuing Mr. Quiocho outside of the building violated the Hawai'i County Code, section 2-83, subsection A3.

Ms. Nakanishi: Could we amend it to strike the outside the building and just limit it to arguing with the member of the public who's in the audience?

Ms. Short: I feel very strongly that we should include um the testimony that we heard that he did step off and then pursue him out...out of the room. Sarah...

Ms. Gibbon: If I could just suggest that uh it sounds like um your concern is that there...we're including something that there weren't witnesses to but the...the pursuit um was in...in chambers. So, I think we could include the pursuit and just cut it off at...at chambers.

Ms. Short: I agree and I'm...and I'm...I'm basing my motion off finding Mr. Quiocho credible as well as finding Corporation Counsel credible, who did state that she witnessed the commissioner coming down off the podium and then the two of them continuing within Council Chambers, just as Sarah stated. Mr. Ho...

Mr. Ho: I agree with everything you just said cause I just remembered that Dr. Sur um also mentioned that yes he did go outside of the...the

chambers and approached the individual. So, right there is admission cause if I was going off of what I had said, then by default I also have to respect what was said with regards to uh what chair Short has um spoken to.

Ms. Short: And I do think we need to remember, we did hear Dr. Sur state himself, that he had enough, he had heard this over and over again and he finally said to em “if you want to say something, say it to my face”. He also openly acknowledged using that language. So, I’m basing my amendment to commissioner Ho’s motion primarily off the testimony which I’ve heard here today which I believe is our responsibility as the Board of Ethics. If someone wants to second, my motion.

Ms. Gibbon: I will second.

Ms. Nakanishi: It was seconded.

Mr. Salas-Ferguson: Yeah, it was seconded.

Ms. Short: Oh, it was seconded.

Mr. Salas-Ferguson: Yeah, we’re in discussion.

Ms. Short: Do we have further discussion? Seeing no further discussion at this time, we will vote. All in favor, aye. Hearing and seeing no opposition, the motion passes and the Hawai’i County Board of Ethics does find um I guess would be in favor of petition 2023-04, that Dr. Sur did in fact violate the Hawai’i County Code of Ethics, article 15, section 2-83 fair treatment, that officer’s and employees of the county while discharging their duties and dealing with the public shall adhere to the following precepts. All persons shall be treated in a courteous, fair, and impartial manner with specific regards to the language um the word “asshole” because it is on the record. The conduct by which he conducted himself while still sitting in the commissioner’s seat and then the conduct that followed pursuing Mr. Quiocho within chambers.

Motion and Vote: Ms. Short moved to amend Mr. Ho’s motion to add to the informal advisory opinion that Mr. Sur’s conduct specifically yelling and then pursuing Mr. Quiocho outside violated the Code of Ethics. Ms. Gibbon seconded the motion. All members voted aye. (12:53 p.m.)

Mr. Salas-Ferguson: And then um you can [Inaudible] that part...

Ms. Short: So, pursuant to the Board of Ethics rules 4.9 and 4.10, this board will issue informal advisory opinion that will be sent to the parties and the appointing authority of the respondent.

Mr. Salas-Ferguson: So, now you're moving on...

Ms. Short: So, at this time, we're going to move on uh to petition 2023-06. If someone would like to make a motion regarding this petition, this is Mr. Sur's....Doctor Sur's petition against officer Quiocho.

Mr. Salas-Ferguson: Assistant chief.

Ms. Short: Assistant chief Quiocho, excuse me. I want to get it correct. Would someone like to make a motion regarding petition 2023-06?

Mr. Ho: I would but I will need Sinclair to help me also.

Mr. Salas-Ferguson: No problem.

Mr. Ho: Um that....in favor of the petition based on behavior on at the board meeting um and the argument that occurred from an audience member to the commission um while discharging their duties as um a county official.

Mr. Salas-Ferguson: So, uh commissioner Ho, you're saying that um assistant chief Quiocho's conduct of um making statements from the crowd in that manner violated the...the code of ethics, that section 83, is that what you're saying?

Mr. Ho: Yes.

Mr. Salas-Ferguson: Okay. So, I'll state the motion for you and then tell me if I'm wrong and then somebody can second it. So, commissioner Ho, um if I understand correctly, your motion is to find that um assistant chief Kenneth Quiocho's conduct of um how do you want to phrase the conduct of what he was saying from the back? Do you want to say it that its yelling or uh....how do you want to describe that?

Mr. Ho: It's difficult for me to determine if it's yelling based on the audio recording cause it was...to me it was clear as day I literally heard his voice so, almost like the microphone was right there so, I don't know if it was yelling.

Mr. Salas-Ferguson: So, it's more the interruption that you're considering to be the...

Ms. Short: Not courteous?

Mr. Ho: It was the non...

Mr. Salas-Ferguson: The interruption.

Mr. Ho: Yeah, the non-courteous um outburst in the middle of a commission meeting.

Mr. Salas-Ferguson: Okay. So, commissioner Ho is your motion to state that um assistant chief Kenneth Quioco's conduct at the hearing that speaking from the crowd out of turn, violated the code of ethics section 2-83 subsection A3?

Mr. Ho: Yes.

Ms. Nakanishi: I would [Inaudible] interrupting a formal commission meeting.

Mr. Salas-Ferguson: Okay. Okay, so...

Ms. Nakanishi: [Inaudible] from the crowd and speaking out of turn.

Mr. Salas-Ferguson: Um, I think...

Mr. Allende: Would...

Ms. Short: Erick, please.

Mr. Allende: Uh I was just gonna say, we've had people have outburst in these meetings as well. Do we need to make it like a clear statement that it's because of the...the...the position he holds that it becomes that fact because he...like he said, he's sorry for those actions and he does know better but, it's those actions as the ACP that created this situation not necessarily him just as a public member, right?

Mr. Salas-Ferguson: So, um, assistant Kenneth...assistant chief Kenneth Quioco in...in...in this capacity, he's the...the complaint is made against him as an officer of the county or employee of the county so um, in Kenneth Quioco's um duties as an employee, did he violate the code of ethics by doing what he did and so I believe your motion is that...that did violate um the code of ethics, is that correct commissioner Ho?

Mr. Ho: Yes, by engaging in argument um...engaging in an argument in the middle of an actual commission meeting while there to serve in the position of authority that he was actually in.

Ms. Short: Is it too late to ask a question?

Mr. Salas-Ferguson: Of um...

Ms. Short: Of uh assistant chief Quioco?

Mr. Salas-Ferguson: Um...

Ms. Short: I just want to know if he was in uniform.

Mr. Salas-Ferguson: I...I think it's fine if um...if commissioner Ho withdraws the motion and then we go back into um the fact finding. Chair wants to ask a question.

Ms. Short: Would it be alright if I ask a question?

Mr. Ho: Sure.

Ms. Short: Would you withdraw your motion for me?

Mr. Ho: I so do so...I do so.

Ms. Short: Assistant chief Quioco, would you mind coming up here real quick just so I could ask you a quick question. Two quick questions, I guess. One, were you in uniform at the meeting that day?

Mr. Quioco: Yes.

Ms. Short: We're you acting in your role as assistant chief? Officially at that meeting.

Mr. Quioco: Oh, of course. I was there representing the Police Department...Uh, yes.

Ms. Short: Okay. Okay. That would be my question. So, if you want to make your motion again or if anyone else has questions I guess while we are back in a fact-finding stage. Those were my only two clarifications.

Mr. Ho: I think your clarifications actually um go directly to the point of my motion.

Ms. Short: Mhmm.

Mr. Ho: Um, so do you have enough or do you need more to [Inaudible]...

Ms. Short: You have to re-make it cause I had you withdraw it so I could ask that questions.

Mr. Ho: Oh, no that's why I was asking if he has enough to help me word smith cause I am...

Mr. Salas-Ferguson: I...I think I do. Um, correct me if I'm wrong. So, um commissioner Ho you would like to make a motion to find that um assistant chief Kenneth Quioco's conduct at the police commission meeting on that date um that's described in the petition's um his conduct specifically engaging um in argument from the crowd um out of turn was discourteous and violated um section 2-83 subsection A3? Are you....Why don't you...why don't you...why don't you state it.

Mr. Ho: Nope, you actually just did.

Mr. Salas-Ferguson: Oh, okay. Okay. Okay. Second.

Ms. Short: Does someone want to second that motion?

Ms. Nakanishi: I'll seconded it.

Ms. Short: Do we have any discussion?

Ms. Gibbon: I...I guess I'm a little unclear on specifically um the behavior that we're calling out. I feel like we could get a little more crisp there.

Ms. Short: Please continue Sarah.

Ms. Gibbon: Um...

Ms. Short: Ms. Gibbon....

Ms. Gibbon: Um, seems like it's specifically the speaking out of turn not following procedure and...and going up to um...you know following proper...proper procedure to...to make a point. Is...is that accurate? Is...okay.

Mr. Ho: Yes.

Mr. Salas-Ferguson: Actually, you know what. Um, would this....is this more specific that the conduct of interrupting the commission to engage in

argument, is that really what the conduct...is that the conduct that you would feel violated?

- Mr. Ho: Short answer to your question, yes, especially as a uniformed individual there to serve the purpose.
- Ms. Short: Scotty.
- Mr. Paiva: Can I maybe add some....so to me, it's more of an outburst in a heated manner. That the AC took on that.
- Mr. Ho: I agree.
- Ms. Nakanishi: He directed his comments directly to Dr. Sur. Rather than even asking. He didn't even ask could he speak, and he's already apologized for it but still it happened, but it disrupted the meeting and was directly at Dr. Sur and...and then it provoked...and a whole...it caused em to have to even um take a break in the meeting.
- Mr. Salas-Ferguson: Is it even more specific? Sorry, go ahead.
- Mr. Paiva: And just heated that he had mentioned he got...he got upset. He was perturbed and he was angry.
- Mr. Salas-Ferguson: So, is it commissioner Ho, is it more specific to state that an out of turn outburst directed at Dr. Sur? Really what I'm trying to find is cause I'm going to be drafting this informal opinion for you guys so, I want to make sure that it's correct.
- Mr. Allende: I don't know. I'm...I'm hearing the...the...the...the fact of what we're saying but, I think we...we need to un-make it known that the only reason we're um hearing this is because um ACP Quiocho is in the position that he's in. If he was a normal bystander of the...the crowd, he would've been removed. So, I think we need to put that...the reasoning for this hearing and petition is because of the position he holds, not necessarily just because he was in that crowd at the time.
- Mr. Salas-Ferguson: Right. So, like just a general member of the public, if that...member of the public would've done what um...is alleged that or AC Quiocho did, that member of the public is not subject to the code of ethics. The only reason we're here is because um assistant chief Quiocho is subject to the code of ethics. And that would be explained in the...for sure. Yeah. They will be [Inaudible]....

Ms. Nakanishi: And the other thing, when we have people that interrupt during meetings or you know break DE quorum, there not directing their comments directly to one of us, it's just a general disruption so yeah but mostly cause of his position.

Ms. Short: So, we still have a motion on the table. Would someone like to second commissioner Ho's motion?

Mr. Salas-Ferguson: It was.

Mr. Ho: Denise did.

Ms. Short: Denise already seconded.

Mr. Ho: Yup.

Mr. Salas-Ferguson: Further discussion.

Ms. Short: Do we have any further discussion?

Ms. Nakanishi: Uh Sinclair can you read it back to us please.

Mr. Salas-Ferguson: Yeah, so I'll restate it again so that we can all be very clear this. So, um the motion on the floor is I understand it is that the conduct of assistant chief Quiocho at the commission meeting in question specifically the out of turn outburst directed at Dr. Sur um violates section 2-83, subsection A3 of the code of ethics. Is that correct?

Mr. Ho: Yes.

Mr. Salas-Ferguson: Okay.

Ms. Short: Do we have any further discussion that this time board?

Mr. Ho: I think really just the um the rationale on...on my end is when you are in a position to where you are representing the State of Hawai'i, the County of Hawai'i in a position, it...there becomes a level where you need to make sure that no matter what is occurring that you're holding yourself to the highest regard whether it is um as a um a member of the police force, whether it's a member of the fire department or really a member of any...anything. Um, that I applaud the realization and the apology that came with it. I 100% am appreciative of that. It's also just looking out for the future to remind those in positions, it is their responsibility to remember to

hold back what they may want to do. Hindsight is 20/20, unfortunately there is no rewind in life.

Mr. Salas-Ferguson: Any other discussion?

Ms. Short: Any further discussion board? Ms. Nakanishi.

Ms. Nakanishi: Just...just one comment. I...I don't think any of us want to find either of you in violation but, I don't think we have...we haven't been left with much choice. So, sorry.

Ms. Short: I would echo her sentiments, that it's...it's just if we look at facts, and the petitions here, it's our job as the County Board of Ethics to sometimes um I guess make decisions that we don't want to make necessarily. And I don't want to speak for the whole board, but I feel like I can probably make that statement on our behalf. So....

Mr. Salas-Ferguson: Any other statements or....

Ms. Short: Any other statements or comments or discussion at this time? Everybody ready to vote? All in favor, aye. Hearing and seeing no opposition um at this time, the Hawai'i County Board of Ethics does find in favor of petition 2023-06, that um AC Quiocho was in violation of the Hawai'i County Board of Ethics....Hawai'i County Ethics Code in speaking out of turn at the meeting that day.

Motion and Vote: Mr. Ho moved to find that Mr. Quiocho violates the code of ethics in petition 2023-06. Ms. Nakanishi seconded the motion. All members voted aye. (1:09 p.m.)

Ms. Short: So, pursuant to Board of Ethics rules 4.9 and 4.10 the board will issue an informal advisory opinion that will be sent to the parties and the appointing authority of the respondent. Thank you very much for being here today you guys.

Mr. Salas-Ferguson: Take a recess then uh...

Ms. Short: Let's take a brief recess um do I have a motion at 1:10 p.m. to take a brief recess so we can move into executive session.

Mr. Salas-Ferguson: Are you guys going to take lunch or...

Ms. Short: We usually eat lunch while we go through these.

Mr. Salas-Ferguson: Okay.

Ms. Short: So, um I motion at 1:10 p.m. we take a five-minute recess to shift into executive session and we will we convene at 1:15 p.m.

Mr. Ho: Point of order, cannot recess to then go...to go into it. So, is the recess to swap out Corporation Counsel and get ready to do our next agenda item.

Ms. Short: Mmhmm.

Mr. Ho: Okay, thank you for clarification.

Mr. Salas-Ferguson: Yeah, just a recess.

Ms. Short: Just a recess. So, did someone want to second my motion for a five-minute recess?

Mr. Allende: Second.

Ms. Short: At this time, let's vote....or any discussion? All in favor, aye. You gotta vote. I see no opposition at 1:11 p.m. we will take a five-minute....Seeing no opposition at 1:11 p.m. we will move into a five-minute recess and reconvene at 1:16 p.m., thank you all very much.

RECESS (1:11 p.m. to 1:17 p.m.)

Ms. Short: At 1:17 p.m. the Hawai'i County Board of Ethics here by reconvenes. Would someone like to make a motion to move us into our next agenda item #6 which is executive session.

Ms. Nakanishi: I move we go into executive session.

Ms. Short: Would someone like to second Ms. Nakanishi's motion?

Mr. Paiva: Second.

Ms. Short: Seconded. Any discussion? All in favor, aye. Hearing no opposition, at 1:18 p.m. the board will enter executive session.

Motion and Vote: Ms. Nakanishi moved to enter executive session; Mr. Paiva seconded the motion. All members voted aye (1:18 p.m.)

6. EXECUTIVE SESSION (1:18 p.m. to 1:55 p.m.)

a. Review of the executive session minutes of April 14, 2023.

- 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.
- c. Continued 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.

Motion and Vote: Mr. Ho moved to exit executive session. Mr. Allende seconded the motion. All members voted aye. (1:55 p.m.)

Ms. Short: Which brings us to #7 announcements A.

Mr. Ho: Nope.

Ms. Short: What?

Mr. Ho: Point of order, chair....

Ms. Wan: Minutes.

Mr. Ho: Move to...

Ms. Short: Oh, excuse me. Approval of the regular session minutes um...

Ms. Chang: Executive.

Ms. Short: Approval of the executive session minutes from April 14, 2023.

Mr. Ho: Moved to approve executive session minutes of April 14, 2023.

Ms. Short: Someone want...

Mr. Paiva: Second.

Ms. Short: Any discussion? All in favor, aye. Hearing no opposition, the motion to approval our executive session....Hearing no opposition, um the motion to approve the executive session minutes from April 14, 2023, unanimously passes. At this time, this brings us to agenda item #7A.

Motion and Vote: Mr. Ho moved to approve the executive session minutes of April 14, 2023. Mr. Paiva seconded the motion. All members voted aye. (1:55 p.m.)

7. ANNOUNCEMENTS (12:47 p.m.)

- a. The next monthly meeting of the Board of Ethics is scheduled for Wednesday, June 14, 2023, at 10:00 a.m. at the Hawai'i County Building, Council Chambers, 25 Aupuni Street, Hilo, Hawai'i 96720.

Ms. Short: The next monthly meeting of the Board of Ethics is scheduled for Wednesday, June 14, 2023, at 10:00 a.m., here at the Hawai'i County Building, Council Chambers. At this time, would someone like to make a motion to adjourn at 1:56 p.m.?

Mr. Allende: Can I make a motion to adjourn at 1:56 p.m.?

Mr. Ho: Is that a question or are you making a statement?

Mr. Allende: I'm making a statement.

Mr. Ho: I second.

Ms. Short: Is there any discussion on this? Shall we vote? All in favor, aye. Hearing no opposition, at 1:56 p.m. on Wednesday, May 10th, the Hawai'i County Board of Ethics officially....wait, adjourns.

Motion and Vote: Mr. Allende moved to adjourn the Hawai'i County Board of Ethics meeting; Mr. Ho seconded the motion. All members voted aye. (1:56 p.m.)

8. ADJOURNMENT (1:56 p.m.)

Mr. Paiva: Thank you everybody.

Mr. Allende: Thank you!

Ms. Short: Thanks guys!

Respectfully submitted:

Kelsie Chang, Secretary