

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

Wednesday, October 11, 2023

10:01 a.m. – 10:22 a.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

Denise Nakanishi, Member

Sylvia Wan, Deputy Corporation Counsel

Amber N.K. Antony, Secretary

Kelsie Chang, Staff

Khayla-Lei Peiler, Staff

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

Ms. Short called the meeting to order at 10:01 a.m. Present were Rachel Short, Erick Allende, Christopher Ho, Paul Paiva, Denise Nakanishi, Sylvia Wan, Amber N.K. Antony, Kelsie Chang, and Khayla-Lei Peiler.

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

Ms. Short: Thank you everyone for taking the time to be here this morning. Well go ahead and get started out of respect to everyone’s time. Just a friendly reminder, that under HRS 92-3 of the sunshine law the board may remove any person who willfully disrupts a meeting to prevent or compromise the conduct of that meeting. All persons appearing before the board are reminded to conduct themselves in a courtesy manner. Um, do we have any statements from the public at this time?

Ms. Wan: Uhh chair no we do not have anyone signed up for public statements at this time.

**3. APPROVAL OF THE REGULAR SESSION MINUTES (10:03 a.m.)**

a. Approval of the regular session minutes of October 11, 2023.

Ms. Short: Ok awesome. With that being said, we’ll move right along to the approval of the session minutes from the last meeting. Would

someone like to make a motion to approve. Has everyone had a chance to review the session minutes from June 14, 2023. Wow, we haven't met in a while. Do I hear a motion?

Mr. Ho: Chris Ho. Move to approve minutes from June 14<sup>th</sup>.

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

Mr. Paiva: Scotty Paiva. Second.

Ms. Short: Any discussion? Are we ready for a vote? All in favor please say Aye. Aye. Any oppose say nay. Hearing no opposition the regular session minutes of June 14, 2023 are approved.

**Motion and Vote: Mr. Ho moved to approve minutes from June 14, 2023; Mr. Paiva seconded. All members voted aye. (10:03 a.m.)**

Ms. Short: At this time, we'll move onto agenda item 4a unfinished business, Petition 2023-08, review draft informal advisory opinion regarding a petition from a county officer seeking clearance and guidance regarding a potential conflict um of interest.

**4. UNFINISHED BUSINESS (10:03 a.m.)**

- a. Petition 2023-08: Review draft Informal Advisory Opinion regarding a Petition from a County Officer seeking clearance and guidance regarding a potential conflict of interest.

Ms. Wan: I will just note for the record, I believe that this particular petition 2023-08 was heard within closed session so if you could please keep the petitioner's name confidential as you're making motions regarding the order.

Ms. Short: So we do not have anyone present to testify on this position?

Ms. Wan: Uhh no chair. There are no public testifiers at this time.

Ms. Short: OK.

Ms. Wan: Motions.

Ms. Short: Should someone like to make a motion regarding Petition 2023-08 Informal Advisory opinion? Does everyone? I'll give everyone on the board a moment to review that real quick. Again, the petitioners name is being um not disclosed because it was in private session, closed session, executive session, excuse me.

Ms. Nakanishi: I make a motion to approve it, already. I make a motion to approve Petition number 2023-08.

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

Mr. Allende: I'll second that.

Ms. Short: Any discussion to be had regarding this motion?

Ms. Wan: Uh, just one part of clarification, I'm sorry I um confused in my brain which order this was for. I believe this order was not uh confidential.

Ms. Short: OK. But it sounds like we have a motion to approve Petition 2023-08 Informal Advisory Opinion. We had a motion and we had a second, at this time I will invite any discussion. Seeing no discussion to be had we will go ahead and vote all in favor say Aye. Aye. Any oppose please say nay. Hearing no opposition, the Petition number 2023-08 Informal Advisory Opinion is approved unanimously.

**Motion and Vote: Ms. Nakanishi moved to approve Petition 2023-08. Mr. Allende seconded the motion. All members voted aye. (10:05 a.m.)**

b. Petition 2023-09: Review draft Informal Advisory Opinion regarding a Petition from a County Officer seeking clearance and guidance regarding a potential conflict of interest.

Ms. Short: Moving right along to agenda item 4b, Petition 2023-09 we will review the draft Informal Advisory Opinion regarding a petition from a county officer seeking clearance and guidance regarding a potential conflict of interest. I'll give everyone on the board a moment to find that Informal Advisory Opinion and review it. And if someone would like to make a motion please feel free to do so.

Ms. Nakanishi: (Inaudible)

Ms. Short: Would you turn on your microphone please Denise?

Ms. Nakanishi: I hit the wrong thing. Um I uh I move that we um accept the Informal Advisory Opinion 2023 09.

Ms. Short: Someone like to second that motion?

Mr. Allende: I'll second that.

Ms. Short: Any discussion to be had?

Mr. Ho: Chris Ho. I just had a quick question, um, if I remember correctly this particular petitioner um was awaiting replacement or something was happening, are they still within their position?

Ms. Nakanishi: I can't hear you?

Mr. Ho: Are they still within their position?

Ms. Wan: I believe that was for a different petition not for this one. Um, I believe Mr. Cross still had time left on his appointment.

Ms. Short: Any further discussion to be had? Seeing no further discussion, we have a motion on the table. All in favor please say aye. Aye. Any opposition please say nay. Hearing no opposition, the uhh motion passes unanimously to approve Petition 2023-09 Informal Advisory Opinion.

**Motion and Vote: Ms. Nakanishi moved to approve Petition 2023-09. Mr. Allende seconded the motion. All members voted aye. (10:07 a.m.)**

**5. NEW BUISNESS (10:07 a.m.)**

a. Petition 2023-12: Review of a Petition from a County Volunteer seeking clearance and guidance regarding a potential conflict of interest.

Ms. Short: Moving along to new business item agenda 5a Petition 2023-12 a review of a petition from a county volunteer seeking clearance and guidance regarding a potential conflict of interest. Do we have the Petitioner present today? If you would like to please make your way up. Good Morning.

Ms. Godoy: (Inaudible)

Ms. Short: Yeah the button on the right. If you would please state your name and the reason for your petition. You'll have 5 minutes.

Ms. Godoy: Renee Godoy, I'm actually here to answer questions so I'm not real clear on the I think the concern was, I'm not sure if the concern was...

Ms. Wan: Well, um I'm sorry Ms. Godoy. Um before you launch into it. You've... announced yourself. I'm just going to note for the... the board two things. One on her petition she asked for a closed hearing so the board would have to address that question, whether or not to close the hearing. But two, um I uh during off off time, as I reviewed the petition it appears that um Ms. Godoy is a volunteer, is that correct?

Ms. Godoy: Yes.

Ms. Wan: Ok. So based on that status I prepared a legal opinion for the board. Um I'm just going to state the nature of the.. of the law to... for the record. Um I will note that Hawaii County Code Section 2-86 is what provides um the Board of Ethics the ability to hear Informal Advisory Opinions. As to um section A uh inquirers conduct, the members who can petition for a informal advisory opinion regarding inquirers conduct reads as such: A inquirers conduct: any county officer or employee may petition the board for an informal advisory opinion concerning their own conduct by writing to the board I emphasis that any conduct regarding a county officer or employee. The question arises whether or not a county volunteer would fall under the county code of ethics. Uh pursuant to Hawaii County Code Section 2-81 the code of ethics shall apply to every officer or employee of the County. I will note that a volunteer is not considered a officer or employee within the county code of ethics. The definitions under section 2-82 defines who would be considered as a county employee. A county employee means any person except an officer who is employed by the county or any agency thereof but the term shall not include as an independent contractor. Further, as an officer, officers include the following, 1. Mayor, Members of Council, all other elected officials of the County. 2. Any persons appointed as the administrative head of any agency of the county. 3. The first deputies, first assistant uh to the administrative head of any agency of the county. 4. Any person appointed as a member of a board or commissions specifically provided for in the charter but not including boards or commissions having only advisory powers and functions. 5. Any person appointed as a member of any board or commission not specifically provided for in the charter but not including boards or commissions having only advisory functions or powers. And finally, the managing director and deputy managing director. It does not appear that a volunteer would otherwise fall under the term of officer in that uh Ms. Godoy does not serve on a Board or Commission that otherwise does not have...uh that has more than advisory powers. So um I would also note that there is other uh Hawaii State Revised statues that support this, there is an

entire chapter regarding volunteer services which is chapter 90, and it says specifically that volunteers recruited, trained or excepted by an agency shall be excluded from any provision of law related to the state or county's employment. So in that regard um, uh a county volunteer, as in the position, um as as stated by an agency is not considered a county employee or a county officer and thus is not subject to the county code of ethics.

- Ms. Godoy: Well thank you. I'm not that important of a person, so...
- Ms. Wan: No no no! So, so for that matter, I'm just putting the status of the law on to the record for the board so the board would otherwise, um this petition is on the agenda but the board would otherwise need to handle this petition with that in mind.
- Ms. Short: So can we even hear the petition? If she's not an employee? And the board of ethics doesn't oversee volunteers?
- Ms. Wan: It would appear not.
- Ms. Short: OK.
- Ms. Wan: It is within the boards authority to dismiss any petition um for any reasonable reason.
- Ms. Short: So we're going to, I'm going to motion to dismiss your petition.
- Ms. Wan: Um, I'm sorry chair. You should probably allow one of your board members to make the motion first.
- Ms. Short: Oh sorry. Someone else do it! Sorry about that!
- Ms. Godoy: Thank you.
- Mr. Ho: Chris Ho move to dismiss petition.
- Ms. Short: Will someone second that?
- Mr. Paiva: Scotty Paiva second and thank you for your your services, I know you provide uh terrific service to the department, I used to be a commissioner... this department and thank you you did a... you continue to do a great job and I appreciate you then and I think more so now. Thank you!
- Ms. Godoy: Thank you!

Ms. Short: Yeah. Thank you for all you do! Any further discussion to be have? had? Seeing no discussion we will vote. All in favor of dismissing the petition say Aye. Aye. Any opposition say Nay. Hearing no opposition the petition is dismissed. Thank you so much for your time and for your work.

**Motion and Vote: Mr. Ho moved to dismiss Petition 2023-12. Mr. Paiva seconded the motion. All members voted aye. (10:13 a.m.)**

Ms. Godoy: Thank you very much! Nice meeting all of you. That was easy and painless. Thank you very much.

Ms. Wan: And and Ms. Godoy, if you do need further guidance, it would make sense that you should contact your agency uh supervisor.

Ms. Godoy: Yeah, thank you very much! I will do that. Thank you very much.

Ms. Short: Thank you for your service and your due diligence. Appreciate it. Ok! We're moving right along today. Item 5b...let's get the board member report from Chris and Scotty on the ethics conference 2023 please.

Mr. Ho: Um ok thank you Chair Short. Um so Scotty and I had the opportunity um along with Kelsie and um Sylvia to go to the state ethics um training conference of sorts. Um so first off I want to say thank you to the state um ethics commission for um hosting and Honolulu um Ethics people um for their due diligence in providing the opportunity um it was an eye opening experience to see that we are definitely different...um than Oahu but then we already all know that...um but its interesting to see um someone of the similarities that we have with Maui and with Kauai and how they do things um. We...one of which is investigation um that is something that typically we do...um same thing with Maui and with Kauai however Kauai actually goes out and pays for an investigator to do their investigations which I don't know where they got the money but good on them. Um other than that uh it definitely um helped me to provide um my nine pager um to corporation counsel to look at our um rules and the fact that we are desperately in need of update um to get them into the I think were in the 22<sup>nd</sup> century...um 21<sup>st</sup> I don't know...21<sup>st</sup> ok great. Um 21<sup>st</sup> century just so that things can run correctly um with all of the things that have changed additionally um realizing that there's somethings that are missing that we do that need to be there um to provide us guidance to kind of um protect to make sure that were doing things correctly um so thank you to all of you and especially

to Sylvia I apologize for the lengthy nine page document that I sent you.

Ms. Wan: Deputy Corporation Counsel Sylvia Wan. So I'm just going to make uh a quick comment um as to the nine pager that Mr. Ho has been referring to with suggested changes to the rules um we will handle uh filtering of those rules uh suggested changes administratively and they will appear on the agenda as appropriate in the oncoming months. So the board will be made aware of them as is appropriate in timing.

Mr. Paiva: That was good. I also was fortunate to attend the conference and training and also thanking the um state ethics commission board and also Honolulu city and county who assisted in hosting that that day. Uh it was a great day it was a eye opener for me uh really appreciated attending that and seeing the differences in the different counties on how they handle ethics and I was really impressed with the city and county of Oahu they seem to take it very seriously, they have um I...I believe a 5 member volunteer board but also an 11 member paid staff. And the..the...I think they go by commission, and I think the Honolulu City and County ethics commission is able to issue civil penalties and um um for violations which I...which I...I thought was...I think is good. Um, and just just impressed with their involvement in the uh city and county's ethics program and from training all the way through to enforcement of their their their rules and I would recommend our board to go to the webpage for the Honolulu's commission and see their webpage and see what they're doing and their rules and like Chris I would recommend that we seriously look at our rules and how we want to handle ethics now and in the...in the future. I think now is a great opportunity. Thank you.

Ms. Short: Thank you for sharing, thank you for going on our behalf. I'm sorry I couldn't be there with you all, so. Thanks for filling us in. At this time would someone like to make a motion for us to enter executive session for the purpose...

Ms. Wan: Um I'm sorry, before that I think uh we need a motion just to close file on the board members reports.

Ms. Short: Oh. Would someone like to make a motion to close file on the board members reports?

Mr. Paiva: Can I make one question? Wondering what Silva...what Sylvia you got from the uh..on the..on the legal side?

Ms. Wan: Um, uh...thank you members, member Paiva, I will just note that as my role as Deputy Corporation Counsel Sylvia Wan my thoughts regarding the roles responsibilities liabilities and powers of this board as it relates to suggested changes by the board members is um confidential as it uh...uh attorney client communication so I am not really at leisure to provide that um on the record, also I am technically not a board member, I assist the board so the board members reports, according to sunshine um is from the board members, since you went to this conference today, um however I understand that you are excited about uh reviewing the new rules and if any members want to suggest rule changes please contact me offline and we can talk about um the best way to try to implement that and propose that to the board at large and put it on the agenda. Does that cover what you're asking?

Mr. Paiva: No, just your take away as what you experience and any...

Ms. Short: I think she's saying she's not legally allowed to say.

Ms. Wan: I'm not allowed to, I'm sorry.

Mr. Paiva: I'm not asking for an opinion, just your experience.

Ms. Wan: I understand, however I am not on the...my opinions not on the agenda. And it also not required by sunshine, uh or rather its...I'm not allowed to give my opinions, I'm not a board member.

Mr. Paiva: Then disregard my question.

Ms. Wan: Thank you.

Ms. Short: Would someone like to make a motion to close um Chris and Scotty's review on the State Ethics conference please?

Mr. Ho: Chris Ho. Move to close file.

Ms. Short: Second that motion someone?

Mr. Allende: I'll second that.

Ms. Short: Any discussion to be had? Seeing no discussion, we will vote...all in favor say aye. Aye. Any oppose say nay. Hearing and seeing no opposition the motion passes to close the record on the board member report from the Hawaii State Ethics Conference 2023.

**Motion and Vote: Mr. Ho moved to close the record on the board member report from the Hawaii State Ethics Conference 2023. Mr. Allende seconded the motion. All members voted aye. (10:17 a.m.)**

- Ms. Short: Um, at this time would someone like to motion to move us into executive session so we can review the executive session minutes and confidential financial disclosures.
- Mr. Ho: Chris Ho. Move to enter into executive session to review executive session minutes and confidential financial disclosure forms.
- Ms. Short: Would someone like to second that motion?
- Mr. Allende: Second.
- Ms. Nakanishi: I'll second.
- Ms. Wan: I'm sorry! Um not only the financial disclosures but also the gift disclosures and the reason for entering executive session is that you're handling uh confidential personal information.
- Ms. Short: Would you please restate your motion member Ho.
- Mr. Ho: Chirs Ho. Move to enter into executive session to review confidential and personal information as it relates to financial disclosures, gift disclosures, and the executive minutes.
- Ms. Short: Would someone like to second that motion?
- Ms. Nakanishi: I second.
- Ms. Short: Any discussion to be had? Seeing no discussion we will vote. All in favor say Aye. Aye. Any oppose say nay. Hearing no opposition at 10:23 am Wednesday October 11<sup>th</sup> 2023 the board will move into executive session. Can we lock the door? That was fun.

**Motion and Vote: Mr. Ho moved to enter executive session to review Confidential Financial Disclosure Forms, Gift Disclosures, and the Executive Minutes; Ms. Nakanishi seconded the motion. All members voted aye (10:23 a.m.)**

**6. EXECUTIVE SESSION (10:23 a.m. to 10:59 a.m.)**

- a. Review of the executive session minutes of June 14, 2023.
- b. 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.

- c. Review of Confidential Financial Disclosure Forms filed pursuant to Section 2-91.1(d), Hawai'i County Code, by County board and commission members and designated County employees, where personal matters will be reviewed.
- d. Continued Review of Gift Disclosures filed pursuant to Section 2-91.5(a), by County board and commission members and designated County employees, where personal matters will be reviewed.
- e. Review of Gift Disclosures filed pursuant to Section 2-91.5(a), by County board and commission members and designated County employees, where personal matters will be reviewed.

**Motion and Vote: Mr. Allende moved to exit executive session. Mr. Paiva seconded the motion. All members voted aye. (10:59 a.m.)**

Ms. Short: At this time would someone like...

Ms. Wan: Just...just a moment chair so I can reopen the...

Ms. Short: Unlock the door. Ok.

Ms. Wan: Ok chair we have opened...were now open to the public.

Ms. Short: Would someone like to make a motion to approve our executive session minutes?

Mr. Ho: Chris Ho. Move to approve executive session minutes of June 14<sup>th</sup> 2023.

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

Mr. Allende: Erick Allende will second that.

Ms. Short: Any discussion to be had? Seeing no discussion we will vote. All in favor say Aye. Aye. Any opposition please say nay. Hearing no opposition the motion to approve our executive session minutes so passes.

**Motion and Vote: Mr. Ho moved to approve the executive session minutes of June 14th, 2023. Mr. Allende seconded the motion. All members voted aye. (11:00 a.m.)**

Ms. Short: I believe we're at the end of our agenda would someone like to make the motion to adjourn?

Ms. Nakanishi: I make a motion...I make a motion to...(inaudible)...I make a motion that we adjourn.

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

Ms. Wan: I'm sorry Chair. Before we move on to adjournment can you please do the last announcement.

Ms. Short: Announce our next meeting? Yup.

Ms. Wan: Yes.

Ms. Short: Pause that motion.

## **7. ANNOUNCEMENTS (11:01 a.m.)**

- a. The next monthly meeting of the Board of Ethics is scheduled for Wednesday, November 8th, 2023, at 10:00 a.m. at the Hawai'i County Building, Council Chambers, 25 Aupuni Street, Hilo, Hawai'i 96720.

Ms. Short: Our next monthly meeting of the Board of Ethics is scheduled for Wednesday, November 8<sup>th</sup> 2023 at 10am at the Hawaii County Building Counsel Chambers right here in 25 Aupuni Street Hilo, Hawaii.

## **8. ADJOURNMENT (11:02 a.m.)**

Ms. Short: At this time would someone like to motion to adjourn our meeting?

Ms. Nakanishi: I'd like...I move we adjourn our meeting.

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

Mr. Allende: I second.

Ms. Short: Any discussion to be had?

Ms. Wan: No discussions necessary.

Ms. Short: Seeing that no discussion is necessary at 11:02am Wednesday, October 11<sup>th</sup> 2023.

Ms. Wan: Gotta call for a vote.

Ms. Short: Oh Sorry. All in favor of adjourning at 11:02am say Aye. Aye. Any opposition. Hearing none, Wednesday October 11<sup>th</sup> 11:02am this concludes and adjourns the Hawaii County Board of Ethics meeting.

**Motion and Vote: Ms. Nakanishi moved to adjourn the Hawai'i County Board of Ethics meeting; Mr. Allende seconded the motion. All members voted aye. (11:02 a.m.)**

Respectfully submitted:

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Khayla-Lei Peiler, Secretary