

# HAWAI‘I COUNTY BOARD OF ETHICS

## MINUTES – REGULAR SESSION

Wednesday, June 12, 2024

10:01 a.m. – 02:17 p.m.

Hawai‘i County Building

25 Aupuni Street

County Council Chambers

Hilo, Hawai‘i 96720

### Members and Staff Present:

Rachel Short, Chair

Christopher Ho, Vice Chair

Paul Paiva, Member

Denise Nakanishi, Member

Lisa Fukumitsu, Member

Kelly Valenzuela, Member

Sylvia Wan, Deputy Corporation Counsel

Stacie Okuda, Acting Secretary

Emarie Carvalho, Secretary Assistant

Leon Sewell, Secretary Assistant

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

Ms. Short called the meeting to order at 10:01 a.m. Present were Rachel Short, Christopher Ho, Lisa Fukumitsu, Denise Nakanishi, Paul “Scotty” Paiva, Kelly Valenzuela, and Deputy Corporation Counsel Sylvia Wan.

Ms. Short:

Good morning, everyone. I'm chair, Rachel Short. This is the Hawai‘i County Board of Ethics meeting for June 12, 2024. Can we do something about that echo? Can we mute? Okay. Sorry about that, everyone. This is the Hawai‘i County Board of Ethics meeting for June 12, 2024. Our meeting is being held both in person and out. Okay? And at the Hilo Council Chambers, as well as you virtually using Zoom. Um, just a few protocols that we'd like to review really quick for all of our zoom participants. All cameras must be turned on at all times during your hearing. One person speaks at a time with no side conversations. Please mute your device when you are not speaking to improve audio quality for all. For Zoom participants, please raise your hand and wait for recognition by myself before speaking to ensure we make a clean and clear record. Everyone prior to speaking, please state your name so that all parties know who is speaking. Speak slowly, clearly and be close to your microphone. And if everyone at this

time, please leave a distraction by turning off mobile phones and any other devices. Thanks. As a general reminder for all Board of Ethics members, please state your name thoroughly before you speak at any moment today. As a friendly reminder to everyone who's attending, before we introduce ourselves, I do want to remind everyone here that every single person you see serving on this County Board of Ethics before you today is a volunteer. We are all donating our time because we care about the ethics within our County and our community, and we want to be sure that that is upheld. So just a friendly reminder that we are all volunteers in this position. And at this time, I'd like everyone to please introduce themselves. If we can go down the line and say our names, I'll go first. I'm chair, Rachel Short.

Mr. Ho: Christopher Ho, Vice Chair.

Ms. Nakanishi: Denise Nakanishi, member.

Ms. Fukumitsu: Lisa Fukumitsu, member.

Mr. Paiva: Paul "Scotty" Paiva, member.

Ms. Valenzuela: Kelly Valenzuela, member.

Ms. Wan: And then as far as staff, Deputy Corporation Counsel, Sylvia Wan. I also have present with me, the acting board secretary, Stacie Okuda, who is on the far right. Also assisting with Secretary today is Emarie Carvalho and Leon Sewell.

## **2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS (10:04 a.m.)**

Ms. Short: Thank you very much everyone for taking the time to be here with us all today. We'll now begin with public statements on agenda items. Public testifiers, you can testify now or prior to your agenda item if you wish to testify. DCC, Keyra you'll keep time, I believe. Are we keeping time?

Ms. Wan: Uh yes.. Sylvia Wan will be keeping time. You do have two. It's quite alright. Um, you do have two public testifiers. Do you want to call them now?

Ms. Short: Or are they in regards to a petition that we have?

Ms. Wan: Yes. You have two, two public testifiers to have signed up to to testify on the matter before the for board today, who have all both elected to testify here at the top agenda.

Ms. Short: All right, we'll hear from them now.

Ms. Wan: Um, at this time, can Kalai Kalakini, please come up. She is to testify about petition 24-06 that appears on the agenda at item 6a. If you can, please uh turn on your mic. It should glow. There's a little button that's green? There you go. Please state your name and your your time will start for three minutes.

Ms. Kailikini: Thank you. Thank you. Thank you. Can you hear me? Sorry, I got something in my, I got a lozenge. Good morning. My name is Kalei Kailikini, and um what I need to say this morning is that due to the cannabis eradication so reading articles that it has been shown in Hawai'i , the increases of meth use among our youth. Fentanyl is coming in and opioids. So as a mother and a grandmother and I'm affiliated with a small group on another island that it was a big deal for them. Meth. So they did quite a bit of study into that. So now we know that eradication of the cannabis, which is a natural plant, causes the increases of meth, fentanyl is coming on and opioids. Now, the important thing for me is that I am a naturopathic healing person. I studied remedies for about 23 years now, and I did some research on Professor Meshlong, who was the person he's a professor at the University of Jerusalem, chemistry doctor. And he discovered the endocannabinoid system that humans have, which is very crucial for our health. So also, I had two cases. One, a lady from England that utilized the cannabis tincture, which is raw liquid, and it stopped her cancer in the brain. She had brain cancer. And I hate to use the word cure, but it did stop the brain cancer. Then my nephew, my grandnephew, from Waimea, he was diagnosed with seizures, and he was in his early 20s, and the one he was sent to a specialist they could not identify why. So he tried cannabis tinctures, and he did smoke one, maybe twice a week, and it did stop the seizures. And his medical professionals could not understand why. So these are just examples, and so I'm very interested, very supportive of the cannabis plant, because it's God's plant, and naturopathic healing is all about prevention. Not, it's all about healing when you are sick, and it's all about prevention. Okay, so that's my message. Thank you very much.

Ms. Short: Thank you very much for your time and for your testimony.

Ms. Wan: Chair, we have one more testifier. The testifier is Millicent Cummings. She is also going to testify about petition 24-06 which appears on the agenda item 5a. If you could please, just state your name and your three minutes will start.

Ms. Cummings: Millicent Cummings. Aloha, kakou. My name is Millicent Cummings and I am here today to support the validity and necessity for Mr. Christie's petition to seek relief in the form of acknowledgement, examination and correction.

Ms. Short: Thank you.

Ms. Cummings: Yeah, sorry. Of the violations of ethics in question for your review. The testimony submitted to the Hawai'i State Legislature regarding Senate Bill, 3335, relating to cannabis by Chief Ben and Deputy Chief Mahuna last February was both partly false and willfully incomplete due to emissions of critical import and context. The emissions included the scientific and verifiable data on the health-giving, sustaining and disease preventing, preventing properties of cannabis, as well as its potential economic benefits generated in places like Colorado. For one example a very, quite a few. The destructive cycle of prosecution and prohibition in the war on cannabis, based on invalid and long, outdated assessments must now end, and indeed has ended in numerous states and counties around the world. Countries. Excuse me. Maintaining cannabis as a Federal schedule one offense along with drugs like LSD, heroin, and ecstasy is as nonsensical as it is deleterious to the lives of hundreds of thousands of individuals, their families, their livelihoods and their health and safety. Many dozens of peer reviewed studies are irrefutable and for decades now regarding the health benefits of this natural substance as starkly opposed to the side effects of other class one drugs, pharmaceutical drugs and gene therapies of note. *\*inaudible\** assertions suggest pharmaceutical drugs to be the third leading cause of death in the United States due to the faulty prescriptions made drug complications and combinations of other pharmaceuticals, conflicts of interest over medication and even medical malthusians. While I bring attention to said omissions, I commend Chief Ben for his acknowledgement of the fact that cannabis is a legal medical treatment in the State of Hawai'i . In any case, the first paragraph of the law enforcement code of ethic states, I'm sorry. Well I would

certainly like to request another couple of minutes if I may. This is critical information of very important um nature.

Ms. Wan: I'm just letting you know you your. You have 30 seconds remaining any *\*inaudible\** discretion of the chair.

Ms. Cummings: So I can't. I'm not able to request um...

Ms. Short: We may be. You can finish the 30 seconds and then we'll be able to decide whether or not you can finish.

Ms. Cummings: It might be wise to decide now so that I could in fact...

Ms. Short: We're not allowed to due to Sunshine Law but you can finish your statement and then we can choose whether or not we would like to hear more *\*inaudible\**.

Ms. Cummings: How much time do I have?

Ms. Short: You have 30 seconds remaining.

Ms. Wan: 30 seconds.

Ms. Cummings: I'd like to just ask then, where was the justice for the petitioner, who was denied bail eight separate times, and also twice, in the Ninth Circuit Court of Appeals deemed the most dangerous man in Hawai'i , according to four different US, court, District Court judges for using cannabis as a healer, sacramental in a cannabis ministry which was ruled as sincere attunement by US District, Leslie Kobayashi. Where is the justice for those serving a mandatory sentence in prison for growing a natural plant with so many proven, health benefits? Where is the equality for those who have had their property unconstitutionally seized and their freedoms taken away like Mr. Christie who has served 15 months at a federal detention center with no sunshine for the entire time...

Ms. Short: Thank you, Ms. Cummings.

Ms. Cummings: Of his legal though unlawful incarceration having been denied a fair trial for religious defense. Thank you so very much for listening to me and I would like this entire um communication taken into account.

Ms. Short: This is on communication 2024-06 is on our agenda as item 5a, and we may be able to invite you to give, continue your testimony at that time.

Ms. Cummings: Thank you. If not, is it, can this be. Can I present this to be part of the written...

Ms. Wan: The... The... Your written testimony?

Ms. Cummings: Yes

Ms. Wan: Yes.

Ms. Cummings: Thank you. Aloha.

Ms. Short: Thank you for your testimony. Do we have any other public testimony at this time?

Ms. Wan: No chair. We have no other individuals signed up. Thank you.

**4. UNFINISHED BUSINESS (10:13 a.m.)**

- a. Petition 2023-10: Review of a Petition alleging County Employees violated the Hawai'i County Ethics Code.

Ms. Short: At this time, we'll need to take one matter out of order for conflicting counsel. So we're going to go ahead and call out of order, unfinished business, item number 4a. So at this time we'll call petition number 2023-10, the continuing review of the petition alleging that a County employee violated the Hawai'i County Code of Ethics. Do we have any public testimony on this agenda item?

Ms. Wan: Uh, chair, before we get into public testimony, although I will note, just for the record, there's no one signed up for public testimony at this time, but at this point in time the Office of Corporation Counsel has conflicted out of this specific case. My understanding is that conflict counsel from Maui County has been appointed and is online. He is now presently being viewed on the Zoom screen. So at this point in time, myself, as well as the extra staff, are going to be stepping down from this particular hearing.

Ms. Short: Noted.

Mr. Paiva: And and Chair? Member Paiva. As mentioned earlier, previous meetings I'll be recusing myself from this petition.

Ms. Short: Thank you, Scotty. So we'll take note at this time, the DCC is stepping away from serving as our attorney for petition number 2023-10, Sylvia Wan and everyone in her office, and we have conflicting counsel from Maui Corporation Counsel, DCC, Caleb Rowe, I believe assisting the board at this time via zoom. I'll also note for the record that I believe conflict council from Maui has a hard stop at 1215 so we'll need to watch the time. Can I please get all parties present for petition number 2023-10 to state their names for the record in person and on Zoom. Zoom participants, if you would like to please go first.

Ms. Heroldt: Good morning, Honorable commission members, Deputy Corporation Counsel, Lerisa Heroldt on behalf of respondent, respondent Lerisa Heroldt. Thank you.

Ms. Short: Mr. Rowe, will you please state your appearance?

Mr. Rowe: Yes, good morning, Chair. Deputy Corporation Counsel, Caleb Rowe. I'm a Deputy Corporation Counsel for the County of Maui. I have been asked to advise the board in this matter.

Ms. Short: Thank you very much. We have notice and record of our zoom appearances with those present person please state your name and appearances.

Ms. Kawauchi: Good morning, madam chair person, vice chair person and members of the board. Thank you for your voluntary service to the County. My name is Jamae Kawauchi, I represent Mr. Chadwick Fukui in his petition, 23-10. Mr. Fukui is present. He is seated to my right.

Ms. Short: Good morning. Thank you both for being here.

Ms. Lee Loy: Morning Chair, members of the board. Aloha. Sue Lee Loy respondent to petition 23-10 Presently available for any questioning.

Ms. Short: Thank you. Thank you very much for being here this morning. So at this time, we are looking at petition 2023-10. Does everyone at the board have this petition in front of them? We'll give you guys a

minute just to gather your belongings and review and refresh your memory.

Ms. Kawauchi: Madam Chair may I receive confirmation that the board has received Mr. Fukui's submissions. His written submissions.

Ms. Short: Are those the ones that were emailed? Do we have the date that they were emailed. Maui Counsel, Caleb? Mr. Rowe?

Mr. Rowe: Yes, give me just a moment. I don't have the date that they were emailed right off the top of my head, but I will show that there are two or sorry, yes, there are two submissions. One was submitted in advance of the April 12, 2024 meeting, and it's titled, petitioners written public testimony. And there was another one that was submitted in advance of the May 8, 2024 meeting, which is titled petitioners for their testimony.

Ms. Short: I received this as everyone else in the board received the communication that he's referring to. All board members have received this.

Ms. Kawauchi: Ma'am, also receive confirmation that the board has received the written submissions by the respondents. I believe that all three submitted. Yes ma'am. I believe that all three respondents have provided written submissions as well. Can we receive confirmation that you have received.

Ms. Short: I have received those as everyone else in the board received those as well. Yes, they have been received and reviewed.

Ms. Kawauchi: I did request that. I think public written testimony concerning the recent submissions that I received in June of 2024 did want to have reserved my two minutes for that purpose, but I wanted to make the public statements at the top of the petition, rather than do it during the course of the public statements time frame, due to the fact that I understood that Corp Counsel for Hawai'i County was going to be disqualifying themselves.

Ms. Short: So you would like the, your public testifiers to speak prior to petitioner?

Ms. Kawauchi That would be me.

Ms. Short: Is that correct?

Ms. Kawauchi: Yes, ma'am.

Ms. Short: Can we do that, Mr. Rowe?

Mr. Rowe: I don't see an issue with doing that.

Ms. Short: Okay. So at this time, we will invite public testimony on petition 2023-10.

Ms. Kawauchi: Thank you, ma'am. May I proceed? Thank you. With respect to...

Ms. Short: Could you just move slightly closer to the microphone? We're having a hard time hearing you.

Ms. Kawauchi: Not a problem.

Ms. Short: Thank you so much.

Ms. Kawauchi: Oh, you're welcome. Thank you. So with respect to the the recent submission submitted, and the one that I received in June was from Mayor Mitch Roth, we want to caution was able to caution on behalf of my client that the statements made and contained therein are matters of personal interest, understanding that the mayor holds a public office and understanding that he is a licensed attorney in the State of Hawai'i . His letter was couched in the framework of being an advisor to the board, and I want to make very clear that that is not the case with respect to the petition itself. Potential being is a matter of one of personal interest. The case involved, involving Mr. Fukui, has already ended. Its past. The cases against in the past. What remains, however, is Mr. Fukui's request to the County Council, by way of a, by way of a formal request for the payment of his attorneys fee and cost, that the matter was not handled pursuant to the rules, although Mr. Fukui did himself adhere to all the rules and policies of this county in his request to be to be paid, reimbursed for his attorney's fees and expenses. There is it was contained within the mayor's written submission, is a statement that he has no awareness of the case. That is not true. The Mayor himself had signed administrative subpoenas that were in fact ruled to be unlawful by two separate circuit court judges, Judge Nakamoto and Judge Kim. In the understanding as well the Corporation Counsel, as you know, has recused themselves from

this case. I'm advised that your board is aware that Mr. Fukui has filed an action in circuit court petition against the board. The county continues to represent the county in that case, although they are recused themselves from matters related to this agency action. What that highlights is the fact that if the board doesn't take action on the matters that Mr. Fukui petitions about, there will be continued violations, as we have alleged, of county ethics. Mr. Rowe is stepping in here to advise you. He is the attorney for your board. Any advice that you receive from the county at this point, whether written or by oral testimony, cannot be taken as advice. You have to look at it in terms of their particular individual interests and against the matters that Mr. Fukui has alleged. Based on my review of all the written submissions and Mr. Fukui's petition, to my understanding is that there does indeed present issues that are very pertinent to an evidentiary hearing, and we would encourage you to schedule one. Again, if nothing else you can see, the Corp Counsel is not here today representing you. Mr. Rowe is representing you. Then why, indeed, would if there's a petition concerning this matter filed with Third Circuit Court, why is Corp Counsel continue to represent the County? Wouldn't you think that to be consistent, they wouldn't be representing the board in a Circuit Court matter for which Mr. Fukui has made his petition? Further, with an understanding that there was a disclosure made to myself and Mr. Fukui prior to his petition being heard by the County Council. The disclosure was that all persons, individuals, officers and employees of the County would, in fact, be screened from the matter related to his case. But that did not happen. It is a matter of public record that Council Member Lee Loy did vote on a matter related to Mr. Fukui's petition for reimbursement of his fees. So, we're at this point, coming forward to you to ask whether or not you could set this for evidentiary hearing. Urge you to do so, because these matters really do need to be discussed and addressed by the County. There's another issue that's presented. If, in fact, the Corporation Counsel has recused themselves from certain matters and they have chosen to do so, to what extent have they followed their own policies and procedures with respect to conflicts? And the answer is they haven't. And the reason why I know that is because there are no rules for policies or practices that are published for the Office of the Corporation Counsel. There are none. So with respect to conflicts, they don't have any policies. They have no screening policies, they have no conflicts policies, there are none that are published and none that have been proffered to show that there are proper screening

procedures in place. You're going to continue to have problems like this. You may not become aware of them. People don't come forward, but Mr. Fukui has very bravely come forward to tell you about these things because we need them addressed. And he has case has merit. The fact that the ethics issues have come up, tells me that his case, on its merits, were never fully discussed by the Council. And if that's true, then he is entitled, and I would take a different opinion that with the mayor submitted in his response, this board has the authority to issue a penalty, which is potentially to pay Mr. Fukui's attorney's fees and cost as he's requested them. Or void the vote that was taken by the Council and have the Council hear it again. But going back to the matter of there being no Corporation Counsel for your case, the case that Mr. Fukui's case, you have to ask now then, who is stepping in to give advice? By the letter that we received in June by Mayor Mitch Roth, it appears as though he's trying to give you advice as an attorney, as the mayor, but he's also a respondent in this case. So to consider that as advice would be would not be correct. So with that, that this the public testimony that I intended to provide. Mr. Fukui, do you have anything to add. Nothing from Mr. Fukui, and I thank you very much again, for your voluntary service. Thank you.

Ms. Short: Thank you for your time.

Mr. Rowe: And Chair, if I may. It is my understanding that there's been a call from Sue Sue Lee Loy's office that she would like to be let it.

Mr. Short: She's right here. Oh, someone from her office that wants to be let in? Can we do that? Sorry. I'm like I'm looking at her. So does the petitioner wish to speak at all at this time?

Ms. Kawauchi: Mr. Fukui. Do you wish to speak? *\*inaudible\** Do you wish to speak? *\*inaudible\** No, thank you. Ma'am. Thank you for asking.

Ms. Short: Okay, thank you. Thank you for your time. We'll now hear from the respondents in this matter. We have Ms. Lee Loy's office in? And you guys are welcome to move back or stay where you are, whichever you feel more comfortable with your response. Ms. Lee Loy. We'll hear your response at this time.

Ms. Lee Loy: Yeah. Thank you, Chair, members of the board, I think you

Mr. Ho: Sorry. Just real quick. Did you want to wait until your person came in? Just to cover just in case.

Ms. Lee Loy: Just making sure where I'm at.

Ms. Short: And please state your name for the record.

Ms. Lee Loy: Sure. Aloha members. My name is Sue Lee Loy, respondent in petition 23-10. In April, I transmitted a copy of my reply to this particular petition. I trust that you have that answer. I won't bore you with all of the details, but I just would provide a quick, high-level summary of my reply. Petitioner alleges that I have personal or substantial financial interest or gain in this matter. Relevant sections contained within my reply provide that that an inaccurate and false statement. The petition indicates that I voted on this matter. To be clear, I introduced a parliamentary procedure to get the matter started. Once that matter was started, there was a request to defer the matter, which we continued to do. And then at our next subsequent hearing, I was able to provide a disclosure that I would not be continuing in the executive matter and the minutes from that meeting is contained as exhibits within my reply. Contrary to what the petitioners Counsel has asserted, I continue to not have any information regarding this petition. The vote by the members of the Council did not include me and so the rest of the information, as far as my code of ethics is attached, along with all of my disclosure information over the last eight years on my time on the Council, along with any other relevant minutes or attachments to the hearings themselves are contained in links on these documents. I stand ready to answer any of your questions that you may have. I do kindly request that this petition be dismissed with prejudice based on the factual evidence I have prepared within my reply. Thank you.

Ms. Short: Thank you for your testimony, Ms. Lee Loy. Do we have any other respondents present to testify at this time?

Ms. Heroldt: Yes, hello, commission. This is respondent, Lerisa Heroldt. First of all, I apologize if this was *\*inaudible\** before I was allowed to enter the Zoom meeting that I would like to request a closed hearing on this matter. The reason being is that petitioners allegations indicate attorney-client communications between Corporation Counsel and the Hawai'i County Council. The second thing is, I just wanted the to state on the record that I have not

received a copy of petitioners submission dated May 8, 2024, so I will not be able to respond to those allegations.

Ms. Short: Do we want to entertain a closed hearing at this time for the discussion of personal attorney-County information? Would someone on the board like to make a motion to close this hearing or are we ok with hearing it open? Denise?

Ms. Nakanishi: Do we have a choice? I would think we don't have a choice since it's attorney-client privilege. May be a question for.

Mr. Ho: Chris Ho. Vice Chair. Move to enter into a closed session due to attorney-client privilege information.

Ms. Short: Do I have a second on that motion?

Ms. Fukumitsu: Board Member Fukumitsu. Second.

Ms. Short: Any discussion to be had? Hearing or seeing none, we'll call for a vote. All in favor of this being a closed hearing, please say aye.

*\*All members say aye in unison\**

Ms. Short: Any opposition, please say nay. Hearing and seeing none on this board at this time, we will close the hearing. If everyone who is not involved in petition. 2023-10 would please step out. We'll close the curtains.

***Board moves into Closed Session (10:31 a.m.)***

***Board reconvenes in Open Session (11:21 a.m.)***

Ms. Short: Good morning, everyone. Reconvening in open session the Wednesday, June 12th, Hawai'i County, Board of Ethics, meeting at 11:21 a.m. Hopefully everyone got a chance to get their stuff together. We are still on Petition number 2023-10. At this time, I'll defer to the board and see if we have any further questions regarding Petition 2023-10, for either the petitioner or respondent or any of the involved parties. Does anyone on this board have additional questions they would like to ask? If we could have, please let the petitioner come up and have a seat. Turn on your microphone, state your name. We have a few questions. You have to push the button. Please state your appearance for record.

Ms. Kawauchi: Good morning. Jamae Kawauchi. With me is Mr. Chadwick Fukui, the petitioner on 2023-10 and at executive session we left the room. I understand that the, Ms. Heroldt and Ms. Lee Loy were still in the room.

Ms. Short: That's not accurate.

Ms. Kawauchi: Oh. Thank you. Okay. Well thank you. Thank you for clarifying.

Ms. Short: Thank you.

Ms. Kawauchi: That's what we observed.

Ms. Short: Yeah.

Ms. Kawauchi: Thank you for clarifying.

Ms. Short: Thank you. At this time we are back in open session, and I believe the Vice Chair Ho, has some questions for our petitioner.

Ms. Kawauchi: Thank you.

Mr. Ho: Good morning, Chris Ho. Real quick, can you succinctly explain exactly what the petition itself is asserting is the ethical violation? Additionally, can you attach that to each of the named individuals.

Ms. Kawauchi: One moment, please.

Mr. Ho: Sorry, hold on. Stacie, Mr. Rowe. Thank you.

Ms. Short: Mr. Rowe, you're still there. Perfect.

Mr. Rowe: Yes, I'm still here.

Ms. Short: Thank you.

Ms. Short: So at this time, I believe Vice Chair Ho requested from the petitioner succinct claim of where the ethics violations are and which respondent you believe is responsible for each.

Mr. Ho: That is correct.

Ms. Kawauchi: So may I proceed?

Ms. Short: Yes. Please.

Ms. Kawauchi: Thank you.

Ms. Short: Thank you. If you could please speak in the microphone. For the record.

Ms. Kawauchi: Yes. So first provision would be related to Hawai'i County Charter, Article 14, code of ethics, Section 14-1a. Elected and appointed officers and employees should demonstrate the highest standard of ethical conduct so that the public may have trust and confidence and integrity of the government. We would assert that the respondents one, two and three are in violation of that county charter section.

Ms. Short: Would you please state the names of those respondents?

Ms. Kawauchi: Yes. Respondent, Mayor Mitch Roth. Respondent, Susan Lee Loy. Respondent, Lerisa Heroldt. Hawai'i County Charter, Article 14, code for ethics, Section 14-3, disclosure of interest. All employees and officers of the county are going to make full disclosure in writing to the appointing authority or to the council. In the case of an elected officer, the possession or acquisition of any interest that financial or otherwise, it might reasonably tend to create a conflict with the public interest and any member of the Council who knows of a personal interest, direct or indirect in any action, proposed or pending before the Council should disclose such interest prior to the taking of any vote there on. We find that, or our assertion or allegation is that respondent Lee Loy, Respondent Roth, did not make such public disclosure, so we would allege for their violation of that charter provision. Under Hawai'i County Charter, Article 14, code of ethics, Section 14-5 board of ethics, we understand that you are charged with duties established pursuant to your rules of procedure. There is no, in. So with respect to those provisions, we allege of factual basis contained within the petition as to why it is that we believe that the provisions were violated. We also provided in our written public statement saying and also statements made today's day saying. And we would also assert that, should the board not schedule a matter for evidentiary hearing and take it up that the violations could continue?

Ms. Short: Just so you're aware, petitioners are not allowed to request an evidentiary hearing.

Ms. Kawauchi: Thank you. Yeah, providing the discussion. I hope that answered the question and if it did not, please let me know.

Mr. Ho: Thank you. It actually did. I'm curious with the ones that you noted, 14-1b, 14-3a and 14-5, 14-1b is not listed in your initial petition. So I'm curious as to where that went, 14 point or 14-3a is in here. Awesome. 14-5, but then you also listed others. So I'm a little curious as to why those were not also stated by you when I asked specific ones. They're here. Are they? Do they not merit being brought up at this time to us? Are we to just assume that those are also part of everything?

Ms. Kawauchi: Maybe not clear about the question. Are you saying that in my petition, I referenced other sections.

Mr. Ho: Yes.

Ms. Kawauchi: Oh. They are pertinent.

Mr. Ho: Okay. So, sorry. I've got a whole bunch of questions.

Ms. Short: Please, Vice Chair.

Mr. Ho: Okay. Lead me to my next question. I'm curious as to why the petition is written in such that it's three people put all together. But yet, when you, when I asked you the question of which ethics codes were violated, one of the particular individuals wasn't attached to 14-3a, but it's only two. So, I'm trying to wrap my head around how we as a body are to hold all three for everything or somethings, it makes a little difficult on our end, more of a statement rather than a question. Although I do have a question that is part of the question is, why did you write it against all three of them?

Ms. Kawauchi: Expediency purposes, and there's no rule that states that there's only one respondent for petition.

Mr. Ho: Okay. Thank you. Had another question. It was there, I promise. It'll come back I promise. With. Go to someone else just in case.

Ms. Short: Does anyone else on the board have questions for the petitioner at this time while Vice Chair Ho gathers his others?

Mr. Ho: Oh. Actually, you know what? It is so on your petition, on the second page, the one that opens it, you list as one of the respondents DOES 1-10. Can you tell me who that reference is?

Ms. Short: It's on page one. It says, Petitioner versus Mayor Mitch Roth, Deputy Corporation Counsel Lerisa Heroldt and Council Member Susan Lee Loy and DOES, 1-10.

Ms. Kawauchi: I'll have to look at it. Sorry. I don't have that right in front of me. I apologize. It was written in 2023. April of the same.

Ms. Short: Okay.

Ms. Kawauchi: If you showed it to me then I would be able to tell you.

Ms. Short: Can you hold that up for her? Please? Vice Chair.

Mr. Ho: Oh, sorry.

Ms. Kawauchi: Or may I, may I look at it closely?

Ms. Short: Yes.

Ms. Kawauchi: Okay. May I approach?

Ms. Short: Yes. Sure.

Ms. Kawauchi: Thank you.

Ms. Short: Yes please, and if you could please answer the question as to who those respondents are.

Ms. Kawauchi: Yes. None. None that we know of right now. None that we are aware of right now so there is no specific allegation against anyone else other than the three respondents named individually. So those refer to persons that during the course of the proceedings that we may identify, but we have not identified them right now, so I reserve them in the event that they would be further identified. They have that no one has been identified other than the three that we have being part of our petition.

Mr. Ho: Okay. Sorry, I'm still just trying to wrap. If you know point blank, that these three individuals are at the heart of the claimed ethics violations by putting other ones on there, to me, it almost seems as though you're asserting that we would go into an investigative position, which is no one's but us as a body or the respondents. So I just, I'm a little troubled that you would preemptively put that on there.

Ms. Kawauchi: Is that a question, or is that your is that discussion for your board?

Mr. Ho: That's just me making a statement.

Ms. Kawauchi: Okay.

Mr. Ho: Since you've already clarified the question that I asked with regards to what DOES references?

Ms. Short: Do we have any further questions at this time, and I will state just for the record regarding an evidentiary hearing, only respondents or the board are allowed to decide whether or not there's an evidentiary hearing within law, petitioners are not allowed.

Ms. Kawauchi: Thank you.

Ms. Short: To request an evidentiary hearing.

Ms. Kawauchi: Thank you. Thank you.

Ms. Short: Do we have any further questions at this time. If we have no questions, is someone on this board prepared to make a motion in regards to petition 2023-10. Again, I'll remind this board our choices are to dismiss this petition outright based on what we've heard, to issue an informal advisory opinion or to find violations in this matter. So at this time, I will ask the board to make a motion in regards...

Mr. Rowe: Chair.

Ms. Short: ...as to how they would like to proceed. Is that correct, Mr. Rowe?

Mr. Rowe: Chair, I would just like to clarify on that third point. It wouldn't be to make findings. It would be to launch an investigative hearing.

Basically, you could put forth a motion saying that you're going to have an investigatory hearing. It wouldn't be to make necessarily findings at that time, this time, unless you do so by way of your informal advisory opinion based on the information you have.

Ms. Short: Okay. Perfect. Thank you for the clarification, Mr. Rowe. Would someone on the board like to make a motion in regards to petition 2023-10?

Ms. Fukumitsu: Um. Sorry. Board member, Fukumitsu. Ms. Kawauchi. Hi. I just was wondering if I know you're speaking on behalf of Mr. Fukui, but I just was wondering if he's going to have anything to say?

*\*Ms. Kawauchi inaudible\**

Ms. Kawauchi: Thank you. Thank you, ma'am. Mr. Fukui's answer was no. Thank you.

Mr. Ho: Chris, I'll move to dismiss petition 2023-10 based on lack of merit?

Ms. Fukumitsu: Board member, Fuku... Oh sorry, you have to call for a second?

Ms. Short: No. Do I have a second?

Ms. Fukumitsu: Board member, Fukumitsu. Second.

Ms. Short: Is there any discussion to be had? Hearing and seeing none, we'll call for a vote at this time. All in favor of dismissing petition 2023-10...

Mr. Rowe: Chair? Chair?

Ms. Short: Yes.

Mr. Rowe: If I may, could I just get a little bit of clarification on the motion. So would the motion be to reject the request for an advisory opinion pursuant to Rule 4.5 of the rules of the Board of Ethics, specifically 4.5 b2 which states that the request is frivolous.

Mr. Ho: Thank you, Mr. Rowe. That's where I was frantically trying to turn pages.

Mr. Rowe: Okay.

Ms. Short: So do we need Chris to restate the motion? Mr. Rowe?

Mr. Rowe: I think it's fine. I'd like to clarify.

Ms. Short: So with that point of clarification noted with this motion, is there any discussion to be had? Hearing and seeing none, I'll call for a vote at this time. All in favor, please say aye.

*\*All members say aye in unison\**

Ms. Short: Any opposition, please say nay, Hearing and seeing none at this time, petition 2023-10 is hereby dismissed. Thank you very much everyone for your time.

Ms. Kawauchi: Thank you. Thank you, Madam Chair, members of the board. Thank you.

**Motion and Vote: Vice Chair Ho moved to dismiss Petition 2023-10; Board member Fukumitsu seconded; All members voted aye. Motion passed. (11:39 a.m.)**

### **3. APPROVAL OF THE REGULAR SESSION MINUTES (11:40 a.m.)**

Ms. Short: Moving back in order of the agenda we will return. Oh, and for the record, Mr. Rowe is able to leave at this time, and Sylvia Wan will come back as our Corporation Counsel. Thank you very, very much for all of your guidance, Mr. Rowe.

Mr. Rowe: Thank you, Chair.

Ms. Valenzuela: Thank you.

Ms. Short: At this time, we'll move back in order of our agenda to item number 3, the approval of minutes. Has everyone had a chance to review the regular session minutes from May 8, 2024? Do we have any public testimony on this agenda item?

Ms. Wan: No chair. There's no no other individual signed up for public testimony

Ms. Short: Perfect. Thank you. Would someone like to make a motion to approve the regular session minutes from May 8<sup>th</sup>, 2024, at this time?

Mr. Ho: Chair, Chris Ho. I moved to amend the sorry, let me backtrack. I move to approve minutes with corrections.

Ms. Wan: And do you wanna state with that correction is?

Mr. Ho: I would. Thank you.

Ms. Wan: Before we get the second?

Mr. Ho: Absolutely. First page, underneath one call to order, it lists Christopher Ho, Kelly Valenzuela, and Eric Allende as being present, and we were not.

Ms. Wan: So is the motion to strike those names.

Mr. Ho: That is correct.

Ms. Short: Any other revisions, Vice Chair?

Mr. Ho: No.

Ms. Short: So, yeah. That's what I'm about to do. So, with those names stricken from the record, do I have a second to approve the minutes from May 8<sup>th</sup>, 2024?

Mr. Paiva: Member Paiva, Paiva. Move to approve as, with corrections as stated.

Ms. Short: Perfect. Any discussion to be had?

Ms. Wan: I'm sorry. So Mr. Ho made the motion, specified what his corrections were for the approval, with that amendment. We need a second, then you can discuss and then go. So the motion, I mean, we're still, your not, otherwise your going to have competing motions that could potentially be seconded.

Ms. Short: What do you mean? We made a motion, Scotty seconded it.

Ms. Wan: No. Scotty said he moved.

Ms. Short: No he seconded it. He said I second.

Ms. Wan: Okay. Maybe I got confused by what was going on.

Ms. Short: Yeah. Chris made the motion.

Mr. Paiva: I second the motion.

Ms. Wan: Thank you.

Ms. Short: He second the motion with corrections.

Ms. Wan: Thank you.

Ms. Short: Okay, any discussion to be had? Hearing and seeing none, I'll call for a vote. All in favor of approving the regular session minutes from May 8th, 2024, with the corrections and as amended, say aye.

*\*All members say aye in unison\**

Ms. Short: All opposed, please say nay, Hearing and seeing none the regular session minutes from May 8<sup>th</sup>, 2024, with amendments are accepted.

**Motion and Vote: Vice Chair Ho moved to approve the regular session minutes with the corrections from May 08, 2024; Board member Paiva seconded. All members voted aye. Motion passed. (11:42am)**

### **3. APPROVAL OF THE CLOSED SESSION MINUTES (11:42 a.m.)**

Ms. Short: At this time, do I have a motion to approve the closed session minutes from May 8<sup>th</sup>, 2024.

Mr. Ho: Chris Ho. Moved to approve the closed session minutes of May 8<sup>th</sup>, 2024.

Ms. Short: Do I have a second on that motion?

Ms. Fukumitsu: Board member, Fukumitsu. Second.

Ms. Short: Any discussion to be had? Hearing and seeing none, I'll call for a vote. All in favor of approving the executive session, closed session minutes from May 8<sup>th</sup>, 2024 please say aye.

*\*All members say aye in unison\**

Ms. Short: Hearing and seeing none, please say nay. Hearing and seeing none, it passes.

**Motion and Vote: Vice Chair Ho moved to approve the closed session minutes from May 08, 2024; Board member Fukumitsu seconded; All members voted aye; Motion passes (11:43 a.m.)**

**4. UNFINISHED BUSINESS (11:43 a.m.)**

b. Petition 2024-02: Continued review of a Petition alleging a County Employee violated the Hawai'i County Ethics Code

d. Petition 2024-04: Continued review of a Petition alleging a County Employee violated the Hawai'i County Ethics Code.

Ms. Short: At this time, we'll call petition 2024-02, the continued review of a petition alleging a county employee violated the Hawai'i County ethics code. During our previous hearing, the respondent requested a closed hearing, which was granted by this board. So at this time, we'll have all parties on Zoom or in person that are not associated with this matter, please step outside. We're going to closed hearing. And the petitioner will be able to speak first. Just to make the record clear, could I get a motion from a board member to move us into closed session since we previously heard this in closed session? Just so we have a clean record?

Mr. Ho: Chris Ho. Move to enter into closed session to discuss.

Ms. Wan: I think it's personal, confidential information.

Mr. Ho: Personal confidential information.

Ms. Short: Do I have a second for that motion?

Ms. Fukumitsu: Board member, Fukumitsu. Second.

Ms. Short: Any discussion to be had? Hearing and seeing none, at 11:44am. Oh, vote. All in favor, say aye.

*\*All members say aye in unison\**

Ms. Short: Any opposition, nay. Hearing and seeing none, 11:44am we are now in closed session of the Hawai'i County Board of Ethics.

***Board moves into Closed Session (11:44 a.m.)***

***Board moves into Executive Session (1:12 p.m.)***

***Board moves into Closed Session (1:27 p.m.)***

***Board moves into Open Session (1:49 p.m.)***

Ms. Short: For the record, at 1:49pm the Hawai'i County Board of Ethics is now officially back in open session, and I believe that Kelly was about to make a motion.

Ms. Valenzuela: Kelly Valenzuela, I make a motion to continue this to our July Board of Ethics meeting.

Ms. Wan: Okay and that's?

Ms. Short: For purpose of allowing them to call their witnesses...

Ms. Valenzuela: For the purpose of allowing the...

Ms. Short: Respondent.

Ms. Valenzuela: Respondent to be able to bring in their witnesses, and I believe to be fair.

Ms. Wan: And, and just relate them, adding that that's related to Petitions, 2024-02 and 2024-04.

Ms. Valenzuela: Yes, so this is in relations to petition, 2024-02, and 2024-04.

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

Ms. Nakanishi: I second.

Ms. Short: Any discussion to be had? Hearing and seeing none, I'll call for a vote. All in favor of continuing Petitions, 2024-02 and 2024-04 to the next hearing, so that the respondents on these petitions may bring their witnesses, please say aye.

***\*Board members say aye in unison\****

Ms. Short: Any opposition, please say nay.

Mr. Ho: Nay.

Ms. Short: Four to one, the motion passes. We'll continue this for our July session, so that the respondents may bring their witnesses at that time.

**Motion and Vote: Board member Valenzuela made a motion to continue hearing Petition 2024-02 and Petition 2024-04 to July 17<sup>th</sup> meeting for respondents to call witnesses; Board member Nakanishi seconded; 4 members say aye; 1 member said nay; 1 member recused; Motion passes (1:51 p.m.)**

c. Petition 2024-03: Review of Order Dismissing Petition

Ms. Short: Okay. Calling Petition, 2024-03, review of an order dismissing a petition. Did all board members review the order dismissing the petition? If yes, can I get a motion to approve?

Mr. Ho: Chris Ho. I'll move to approve.

Ms. Short: Wait. Don't let them leave, because we need to make sure that they stop what they should for this. Oh, okay. Nevermind.

Mr. Ho: Chris Ho. I'll move to approve Petition, 2024-03, review of order, dismissing petition.

Ms. Short: Second?

Mr. Paiva: Member, Paiva. Second.

Ms. Short: Any discussion to be had? Hearing and seeing none, I'll call for a vote. All in favor, please say aye.

***\*All board members say aye in unison\****

Ms. Short: Any opposition, please say nay. Hearing and seeing none, the review of the order dismissing Petition, 2024-03 so passes.

**Motion and Vote: Vice Chair Ho made a motion to approve the order dismissal Petition 2024-03; Board member Paiva seconded; all members say aye; Motion passes (1:52 p.m.)**

- e. Petition 2024-05: Continued review of a Petition from a County Employee seeking clearance and guidance regarding a potential conflict of interest.

Ms. Short: Calling petition, 2024-05, the continued review of a petition from a county employee seeking clearance and guidance regarding a potential conflict of interest. Can we please get the petitioner to come up to the mic and state your name for the record. I'm gonna has the board seen this?

Ms. Wan: I hope so. I'm just going to Deputy Corporation Counsel, Sylvia Wan. I'm just going to note for the record. The board requested a communication from the Department of Public Works. They did provide that communication dated May 30, 2024. It should be a part of your packet for this petition.

Ms. Short: No, I don't think we got it.

Ms. Wan: Okay. Just a moment, I'm checking with staff to see if it was, in fact, included.

Ms. Nakanishi: Sorry, what are we looking for? The letters from the Building Division in the Public Works?

Ms. Wan: Yeah. It looks like it might be what you're have your finger on right now. Yes, it is.

Ms. Nakanishi: Just trying to make sure that...

Ms. Wan: Okay. That, that was the response.

Ms. Short: Yeah. So, at our May 8, 2024 hearing, Director Pause and Building Chief Sonomura indicated that they could provide us with some guardrails on concepts this board could consider in its motion for an informal advisory opinion. Should this board consider granting Mr. Manini the ability to do side work, separate and apart from his county employment of DPW? I was hoping for a little more in terms of guidance. I don't know. I can't speak on behalf of everyone on the board, but I was hoping for a little further direction as to how code would be amended, or what that language would look like, so that we could move forward with this petition in a way, while also understanding what it meant for the future. Any discussion? And do we have questions? Yeah, that's what I was saying. Are they still here, so we can ask them questions?

Ms. Wan: Well, at this at this point in time, this petition is only related to this petitioner. The response which was provided was here, so you'd have to invite them back, specifically. My understanding is the invitation was just for communication, and that's what they provided.

Ms. Short: We asked them for specific guardrails and codes. Yeah, they were going to give us bullet points.

Ms. Wan: Okay. I don't really know how to address this right now, because they're not here.

Mr. Ho: Chris Ho. Okay, so for this particular thing, thank you, Mr. Manini, for being here and spending such quality time with us today. With regards to those other two individuals, I feel like we're kind of at a standstill and to ask an entire division department to come up with something in a month's notice, that it's going to take them quite some time, because they'll also have to connect with their individuals to kind of figure out something. So I would love to be able to come up with something for Mr. Manini so we can move forward with him, because he is himself and yeah, this is what we have. This is what we have to deal with. The fact that we have nothing in writing from the division that he works for. That it's really more about what has been done in the past. There's no real set parameters for him. All we can do is give him some guidance. So that's where we're at.

Ms. Short: And I'll note for the record, we have three minutes left in today's hearing.

Ms. Wan: So Deputy Corporation Counsel, Sylvia Wan. So I did just check the staff. We could push it to 2:20 but that is the absolute latest that we can go for this meeting. It, it's just sounds like maybe the board's not ready at this point in time. If you are by all means, I will note that the board has made similar decisions for similar types of requests without hearing from the department. So you can.

Ms. Valenzuela: Kelly Valenzuela, Commissioner. So we have Mr. Manini in front of us. We don't have other people. We don't have other departments. In my opinion, that's something for HR to draft up for the County of Hawai'i. That wouldn't be us a guideline, because all the departments, I'm sure, if I was to go to every single department

has one or two people that are moonlighting, and it's kind of sad that we have to know about what would be ethical or not, and we're all adults in this room, so in this case, it's Mr. Manini. And first and foremost, thank you so much for having the courage and the honesty that's huge today in society to come before us to even ask permission. And I totally understand. So I myself feel like this particular case I need to roll on to vote on this particular case, because he's coming forward. Going further, you know, maybe HR for the County of Hawai'i, aka the State of Hawai'i, I don't know, they can do some type of SOP manual that gives an employee guideline to say, hey, I'm moonlighting. I signed a form. This is what I'm doing, so that the communication you can ever overly communicate. And, you know, allow the employee to rely on their own honesty. That's how I feel today. So I'm ready to rule on and vote for Mr. Manini.

Ms. Short: You have a motion you want to make there, Kelly?

Ms. Valenzuela: Pardon me?

Ms. Short: Do you have a motion? You're ready.

Ms. Valenzuela: So our choice of motions are to dismiss?

Ms. Short: Where he's seeking an informal advisory opinion.

Ms. Wan: Related to his request.

Ms. Valenzuela: Okay, so I make a motion that I don't think it's unethical to seek out other employment besides his present point employment, as long as it company time, on company phones. It's to your own jurisdiction and to provide for your family. And I make that motion.

Ms. Short: I would amend that motion to include that as long as he is not inspecting his own work.

Mr. Ho: Chair, point of order she had made the motion, it needs a second before you make any sort of amendments.

Ms. Wan: Yes.

Ms. Short: Okay. So someone want a second?

Ms. Nakanishi: I second.

Ms. Short: Any discussion? So my discussion is, I would amend Kelly's motion to include that he does not approve of his own work.

Mr. Paiva: Member, Paiva. Can I add that with the approval of his department division head chief, that he that the outside employment or his moonlighting would be with approval of the department he's working for.

Ms. Wan: Okay, so right now it sounds like you we've got two competing motions to amend. Let's start with the first motion to amend, which was proffered by Chair Short. Is there a second?

Mr. Paiva: Sorry. So I think I was thinking I didn't hear it. I apologize.

Ms. Wan: So do you want to recede that?

Ms. Short: Kelly had the motion?

Ms. Wan: No, no, no, she has the motion. That's the main motion on the floor. We are in discussion. You asked to amend?

Ms. Short: Yes.

Ms. Wan: So in order for us to go forward with an amendment, we need to vote on your amendment.

Ms. Short: Would someone like to second my amendment. My amendment is including in Kelly's motion that he cannot stamp approve. Thank you. The word left my brain right then, inspect his own work.

Ms. Fukumitsu: Board Member, Fukumitsu. Second.

Ms. Wan: Okay, now that amendment is on the floor for discussion.

Ms. Short: Okay, so any discussion regarding that amendment I made.

Mr. Paiva: Member Paiva. I'd like to include in the motion to add with approval of the department.

Ms. Wan: So you want to amend her amendment? Okay, hold that. Write it down. We'll come back right now. Discussion only for Ms. Short's motion to amend.

Ms. Short: Any discussion on my amendment. I have a second no further discussion. I'll call for a vote, a vote. All in favor, please say aye.

***\*Board members say aye in unison\****

Ms. Short: Any opposition, please say nay.

Mr. Paiva: Nay.

Ms. Short: Okay. Motion passes to amend Kelly's original motion.

Ms. Wan: Yes. So now Kelly's original motion is on the table, and now you can amend the original motion that has been amended.

Mr. Wan: So state your your motion to amend.

Mr. Paiva: Member, Paiva. I like to add to the original motion with the amended motion to add with the approval of the department.

Mr. Ho: Sorry, point of order. That. Okay. So procedurally with an amendment being made, means just a simple majority vote in order to pass as an amendment, which it did receive, there was one person that verbally said no. So, Chair Short's amendment actually passed completely. So it's been added.

Ms. Wan: Yes.

Ms. Short: Yes.

Ms. Wan: Yes.

Mr. Ho: And then he wants to add more amendment.

Ms. Wan: He wants to add a second amendment to now, what is the larger Kelly's motion? That's Kelly's motion plus Ms. Short's addition. So Mr. Paiva is asking to add, with the department's approval, with the department heads approval. Is that correct? The department's approval?

Ms. Short: Does someone want to second his motion so we can discuss it?

Mr. Ho: Second.

Ms. Short: Any discussion to be had. I have some discussion. I'm concerned about putting that in. How do we get that approval? What does that approval look like? Are we now creating more work for his bosses? Is there a form?

Mr. Paiva: That's that. Member, Paiva. That goes back to the employee wishing the approval for moonlighting? We don't. We don't please?

Ms. Nakanishi: Yeah, that's outside our scope of what we do.

Ms. Short: Right. So...

Ms. Wan: So I guess I'm gonna, sorry Deputy Corporation Counsel, Sylvia Wan. So I'm just gonna ask a question, and maybe you can answer it. What is the purpose of seeking or requesting, requiring the department heads approval of his moonlight jobs?

Mr. Paiva: So that safeguards are in place, so he doesn't inspect his own work.

Ms. Wan: Okay.

Ms. Short: So that that was the information that we had requested from them, they sent that email back. That wasn't bullet points, basically stating, can I take this? They rely on inspections being performed by his peers in the building, plumbing and electrical disciplines, County for permits for such person's principal residence or that of members of such person's immediate family.

Mr. Ho: Chris Ho. I I have some concerns and questions. So, if so, what I'm hearing is we're asking for the supervisor to say yes or no to someone being able to moonlight. That's not within the scope of responsibility for that supervisor to say yes or no to someone doing something outside of their work time. They can't do that. That that would be a huge violation of some laws that I don't even know, because I'm not an attorney. Sorry guys. So I don't know why it would be necessary for the supervisor to approve, really, anything outside of the work that's being submitted, but it's already been brought up that they wouldn't be what was the term? Thank you.

Inspecting their own work. So I don't understand why we would need to, like, it's not even our place to put that on there.

Mr. Paiva:

Then you not second my motion and let it drop.

Ms. Short:

And I also think in my mind, his petition is asking for that permission by coming here.

Ms. Fukumitsu:

Board member, Fukumitsu. So sorry, I have a question for DCC Wan. So is it just the scope of what we're doing here to find a violation of conflict or not and if we.

Ms. Wan:

No, no. So this particular, this particular petition also falls under Hawai'i County Code 2-86. But this is for an employee asking for guidance from the board as to his own potential conduct going forward. So he's basically, he's asking for guidance from the board on how to avoid a conflict of interest going forward with his proposed conduct. So in this instance it's what we have termed the board has turned moonlighting. So it sounds like there is a motion on the board, on the floor that has been amended. So what's what's before the board, right this second is Scotty's motion, if you're going to further amend. So right now, you are formalizing through this motion what the board's opinion is going to be, as far as that informal advisory opinion as to his actions going forward.

Ms. Nakanishi:

So, Member Nakanishi. So, you know, in support of Scotty's amendment, it would provide a vehicle for a supervisor to withdraw if somebody is violating their the rules that they establish. But they could also just, you know, put out a memo. You know, circulating memo, sorry, I'm jet lagged. It could circulate a memo outlining the procedure. So thank you.

Ms. Short:

Personally, I feel like we are now we're getting into a lot of department procedure, which I don't know that we have the authority over, and that's my concern. My, our job here is to hear petition 2024-05, where this specific employee, like Kelly said, Mr. Manini has bravely come forward and said, hey, is what I'm doing okay? And if I'm not, tell me I'm going to stop. The motion on the table is to say what he's doing is okay, as long as he is not inspecting his own work. From my mind, that's pretty, that that's our job. So do we have any further discussion on Scotty's motion. Does someone want to second his motion? No, you already second. Oh, we already second. We're having discussion. So we're taking a

vote. We're voting on Scotty's amendment. All in favor of Scotty's amendment, please say aye.

Mr. Paiva: Aye.

Ms. Short: All opposed. Please say nay.

***\*Board members say nay in unison\****

Ms. Short: The amendment failed. Okay? So with that said, we still have the original motion on the table that we are now ready to take a vote on.

Mr. Ho: Plus your amendment.

Ms. Short: Plus my amendment. So all in favor of the Kelly's original motion.

Ms. Wan: No. So before that, you want it, because we've dealt we dealt with motions to amend. So now you want to open back up for discussion for the main motion as amended. If there's any discussion.

Ms. Short: Is there any discussion to be had on the main motion as amended?

Mr. Ho: I'm sorry. Chris Ho. DCC Wan, can you restate it, because I think it got lost amongst the movement.

Ms. Wan: Unfortunately, because I was paying way too much attention to what you guys were doing procedurally, I'm going to ask Ms. Valenzuela to restate it, and then I'm going to ask Ms. Short to restate her amendment, and you are going to cobble it together.

Ms. Short: Yay, team.

Ms. Valenzuela: Okay, I like you have jet lag as well. But anyway. So, Kelly Valenzuela, Commissioner. I made a motion to allow Mr. Manini to continue moonlighting and the amendment that came forward.

Ms. Wan: So you found that there was no you were stating that...

Ms. Valenzuela: There was no conflict.

Ms. Wan: The informal advisory opinion was to find no violation of the code of ethics, provided that Mr. Manini...

Ms. Valenzuela: Communicate or not inspect his own work.

Ms. Wan: And that was it, okay. Okay.

Ms. Valenzuela: I said move forward on the honesty of the employee.

Ms. Wan: Okay. So basically, he's allowed to do the work as long as he doesn't inspect his own work.

Ms. Valenzuela: Correct.

Ms. Fukumitsu: So sorry. Board member, Fukumitsu, I know we also discussed following the additional contingencies that are already in place, like not doing that work on County time.

Ms. Wan: Oh yes. Yes.

Ms. Short: Time. Yeah.

Ms. Wan: Yes. So not doing it on county time, not using county resources, not utilizing...

Ms. Short: County equipment.

Ms. Wan: County equipment, right? So all of the county resources, provided he doesn't do any of that, there would not otherwise be an ethical violation.

Ms. Short: So provided that all other county code in regards to their job is followed, no county time or money is used during said side work and he does not inspect his own work.

Ms. Valenzuela: Yes.

Ms. Short: All good? Discuss.

Ms. Wan: I will just note that it the words, the specific words, did change over time, but I'll note that Ms. Valenzuela's motion basically started off restating a provision of the code which talks about a

prohibition of using county time for personal reasons. So I'll just let you know that.

Ms. Short: Thank you. Any further discussion? Are we ready for a vote?

Ms. Valenzuela: I make a motion to take a vote.

Ms. Short: I'll call for a vote at this time. Seeing no further discussion. All in favor, please say, aye.

Mr. Ho: Point of order. Sorry, there's a motion on the floor to call the question. It does need a second.

Ms. Short: No.

Mr. Ho: Yeah, she just motion to call the question.

Ms. Valenzuela: No.

Ms. Wan: You did. You did.

Mr. Ho: You did.

Ms. Wan: So why don't you withdraw, so.

Ms. Short: Oh. Just withdraw.

Ms. Valenzuela: Kelly Valenzuela. I withdraw.

Ms. Wan: Okay.

Ms. Short: Okay. So...

Ms. Valenzuela: Comment.

Ms. Short: ...all in favor of Kelly's motion on Petition, 2024-05, seeking the informal advisory opinion, please say aye.

***\*All board members say aye in unison\****

Ms. Short: Any opposition, please say nay. Hearing and seeing none, the motion to approve 2024-05 for Mr. Manini's work hereby passes.

Thank you so much for your time and your patience and your diligence and for your kuleana to come forward.

Mr. Manini: Thank you so much.

Mr. Paiva: And thank you, DPW.

Ms. Valenzuela: Yeah, thank you. Steve and Julann.

**Motion and Vote: Board member Valenzuela made a motion that the informal advisory opinion was not in violation of the code of ethics pending employee does not inspect his own work and not utilize County resources; no motion to second was made; All board members say aye; Motion passes (2:13 p.m.)**

Ms. Short: At this time, in the sake of time, we'll have to table everything to our July meeting, and we're going to move on to number eight, which is adjournment. Can I...

Ms. Wan: You should, you should just do a motion, just to make it easy.

Ms. Short: Oh, can I get a motion to move on to adjournment?

Mr. Ho: Chris Ho. Move to table...

Ms. Short: Thank you.

Mr. Ho: ...items....

Ms. Short: Thank you.

Mr. Ho: ...5a and 6.

Ms. Wan: I believe you also need 4f.

Mr. Ho: Excuse me. 4f.

Ms. Short: And yes, and 5 and 6,

Ms. Wan: Yeah, and 5 and 6. You do have enough time to deal with 5b.

Ms.. Short: We do have enough time to deal with 5b?

Ms. Wan: Yes.

Mr. Ho: Okay, let me go ahead and restate my motion.

Ms. Short: Wait, where is 5?

Mr. Ho: Chris Ho, I'll move to table items, 4f, 5a and all of 6 until July meeting.

Ms. Fukumitsu: Board Member, Fukumitsu. Second.

Ms. Short: Wait. I'm so...

Ms. Wan: Say discussion.

Ms. Short: Any discussion to be had? Are we I have discussion? Are we calling 5b then?

Ms. Wan: So what I'm saying is, is you have enough time to do 5b after you resolve this motion, the only thing left would be 5b and announcements and adjournment.

Ms. Short: Discussion. Do we want to have 5, do? Hear 5b or do we want to table it.

Ms. Wan: No. You are not tabling it right now. The motion doesn't call for tabling it.

Mr. Ho: Chair. We can move on 5b because what was we were already given information about what that person that submitted that petition wants done.

Ms. Short: Oh, got it. I forgot which one we're on. Okay, perfect. Any discussion to be had, Hearing and seeing none, I'll call for a vote. All in favor, please say aye.

*\*All members say aye in unison\**

Ms. Short: All opposed, please say nay. Hearing and seeing none, the motion passes.

**Motion and Vote: Vice Chair Ho made a motion to table Agenda items 4f, 5a, and 6 in its entirety to the July 17, 2024 meeting; Board member Fukumitsu seconded; All members say aye; Motion passes (2:15 p.m.)**

**5. NEW BUSINESS (2:16 p.m.)**

- b. Petition 2024-07: Review of a Petition alleging a County Employee violated the Hawai'i County Ethics Code.

Ms. Short: On to agenda item 5b, Petition 2024-07, review of a petition alleging a county employee violated the Hawai'i County ethics code and I believe the petitioner already withdrew this petition without prejudice. So can I get a motion to dismiss petition, 2024-07 without prejudice.

Ms. Wan: I would say, not, not dismissed. Just, just accept the withdrawal and close file.

Ms. Short: Okay, can I get a motion to accept the withdrawal of Petition, 2024-07 and close file?

Mr. Ho: Chris Ho. Move to accept petitioners request to withdraw Petition 2024-07 and close without prejudice at this time in close file.

Ms. Short: Perfect. Do I have a second?

Ms. Fukumitsu: Board member Fukumitsu. Second.

Ms. Short: Any discussion to be had? Hearing and seeing none, Petition 2024-07, the motion passes.

**Motion and Vote: Vice Chair Ho made a motion to accept the withdrawal of Petition 2024-07 and close file; Board member Fukumitsu seconded; Motion passes (2:16 p.m.)**

**7. ANNOUNCEMENTS (2:16 p.m.)**

Ms. Short: Moving on to agenda item 7a, announcements. The next monthly meeting of the Board of Ethics is scheduled for Wednesday, July 17, 2024, at 10am here at the Hawai'i County Building, Council Chambers. 25 Aupuni Street, Hilo, Hawai'i.

**8. ADJOURNMENT (2:17 p.m.)**

Ms. Short: And at 2:17, I will entertain a motion for our final agenda item, adjournment. Would someone like to motion to adjourn?

Mr. Ho: Chris Ho. Move to adjourn.

Ms. Short: Second, anyone.

Ms. Fukumitsu: Board member Fukumitsu. Second.

Ms. Short: Any discussion to be had? Hearing and seeing none, I'll call for a vote. All in favor. Please say aye.

*\*All members say aye in unison\**

Ms. Short: Any opposed, please say nay. At 2:17pm, Wednesday, June 12, this concludes the Hawai'i County Board of Ethics meetings. Thank you very much everyone for being here today.

**Motion and Vote: Vice Chair Ho moved to adjourn the Hawai'i County Board of Ethics meeting; Board member Fukumitsu seconded; All members voted aye. Meeting adjourned (2:17 p.m.)**

Respectfully submitted:

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Stacie Okuda, Acting Secretary