

HAWAI‘I COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

Wednesday, July 17, 2024

10:02 a.m. – 01:13 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

Sylvia Wan, Deputy Corporation Counsel

Stacie Okuda, Acting Secretary

Emarie Carvalho, Secretary Assistant

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

Ms. Short called the meeting to order at 10:02 a.m. Present were Rachel Short, Christopher Ho, Denise Nakanishi, Paul “Scotty” Paiva, 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 July 17, 2024 being held both in person here at the Hilo Council Chambers as well as virtually using Zoom. I’d like to review some protocols real quickly for our Zoom participants. All cameras must be turned on 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 and 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. Also prior to speaking, please state your name so that all parties know exactly who is speaking. Speak slowly, clearly and be close to your microphone. And if everyone at this time would please limit distractions by turning off your cell phones. Thank you very much. At this time I’d like to give our other board members an opportunity to introduce themselves. I am your chair, Rachel Short.

Mr. Ho: Chris Ho, Vice Chair.

Ms. Nakanishi: Denise Nakanishi, member.

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

Ms. Wan: And then as far as staff, you've got Deputy Corporation Counsel, Sylvia Wan which is myself. We also have as acting secretary today, Stacie Okuda and assisting her is Emarie Carvalho

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

Ms. Short: Thank you very much everyone for being here this morning. At this time do we have any statements from the public on any agenda items?

Ms. Wan: Uh chair. We do have one testifier who has um signed up. A Mr. Gene Tamashiro for Petition 2024-06. That would be agenda item 5a.

Ms. Short: I will just note for the record. I know Gene as a friendly acquaintance in my role as a Rabbi so I just want to disclose that, but I don't feel that that will impact my decision-making ability.

Ms. Wan: Ok. So would you like to have that testifier come up at this time?

Ms. Short: Yes. If you will please come up before. Please state your names. Speak slowly and clearly and you'll have three minutes to testify. Uh the little button that looks like a person talking.

Mr. Tamashiro: Ok. It's on. Good morning, everyone. Aloha kakou. I'm Gene Tamashiro. I'm a Hawai'i national in full process of abjuration and renunciation from the occupying corporations. And I don't know if you know this, but it shouldn't come as no surprise that there is no authority in the United States Constitution to give any Congress the right to create a federal corporation out of a people's constitutional republic. But that's indeed what we have right now and of course, the state of Hawai'i is a subsidiary of that poisonous tree. God bless all the good intention that has been there and continues to be there from the very beginning. We were all born into this false presumption. I was born in 1957 and two years later, the Territory of Hawai'i, which was built on an annexation treaty that does not exist, became the state of Hawai'i, 1959. And I didn't know the implications of that and as life goes on and the dangers by the global corporate mafia, as evidenced by different things that

are occurring on Earth right now, because people are prevented, institutionally prevented, from receiving and being protected in their God given right to full disclosure and substantive due process. I myself as a Hawai'i national, you know, I was presumed to be a US citizen. I find out that's actually a US corporate citizen, and I don't have actual rights, but we didn't know that that I have privileges, and the corporation treats me like they own me, and the proof of that is when I go to court, and this does apply to other issues, like my good friend Roger Christie, is here also to move forward and protect people in their right, especially from police officers and other agencies and judicial system that have sworn an oath in pure intention to honor the United States Constitution, which, by the way, is built on God's natural law. Be truthful, do no harm and honor your word. Interestingly, not surprisingly, here in Hawai'i, our Declaration of Rights, similarly, in 1839, does the same thing. It's built on God's...

Ms. Wan: 30 seconds remaining.

Mr. Tamashiro: Thank you. It's built on God's natural law. 1839, God hath made of one blood, all nations of people to dwell on earth in unity and blessedness. So there's unity in the law. Therefore, there's unity in the people. I do support Roger's initiative to receive substantive due process when he makes a claim and he brings his evidence, just like when I make a claim and I bring evidence, I expect people to honor that oath. I'm going to ask you guys, and I don't know if you can do this before I go, we have court cases entering now into the federal jurisdiction, because we have so much evidence that the state judicial system is institutionally persecuting sovereign Americans as well as Hawaiians of all colors. When we bring up evidence about our claim 131 years of occupation, they institutionally push that evidence right up. It's not allowed in. And so I'm wondering what an ethics board can do to investigate what I call institutional harm and persecution, because the implications actually threaten all of us. Okay. God bless you. Thank you.

Ms. Short: Thank you very, very much for your testimony.

Ms. Wan: And chair, at this time that is the only testifier who signed up presently.

3. APPROVAL OF THE REGULAR, CLOSED, & EXECUTIVE SESSION MINUTES (10:09 a.m.)

a. Approval of the regular session minutes of June 12, 2024

Ms. Short: Okay perfect. we'll move right along to the approval of the regular session as of June 12, 2024. Did everyone on the board have a chance to review those minutes? Would someone like to make a motion to amend or approve in any capacity?

Ms. Nakanishi: I move to approve the minutes of. What date was this? June 12th, 2024, regular session.

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

Mr. Paiva: Scotty Paiva, member. Second.

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

All members say aye in unison

Ms. Short: Any opposition, please say nay. Hearing and seeing none, it is here so moved that the regular session minutes from June 12, 2024, here by the Hawaii County Board of Ethics are approved.

Motion and Vote: Board member Nakanishi moved to approve the Regular Session minutes of June 12, 2024; Board member Paiva seconded; All members voted aye. Motion passed. (10:10 a.m.)

b. Approval of the closed session minutes of June 12, 2024

Ms. Short: At this time, we will move on to the approval of the closed session minutes of June 12, 2024. Do we have a motion regarding those minutes?

Mr. Ho: Chris Ho. Move to approve the closed session, minutes of June 12, 2024.

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

Mr. Paiva: Scotty Paiva, member. Second.

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

All members say aye in unison

Ms. Short: Any opposition, please say nay. Hearing and seeing none, it is so moved that the closed session minutes of June 12, 2024, Hawaii County Board of Ethics are thus approved.

Motion and Vote: Vice Chair Ho moved to approve the Closed Session minutes of June 12, 2024; Board member Paiva seconded; All members voted aye. Motion passed. (10:10 a.m.)

c. Approval of the executive session minutes of June 12, 2024.

Ms. Short: Moving right along to the approval of the executive session minutes from June 12, 2024. Do I have a motion regarding that?

Mr. Ho: Chris Ho. Move to approve the executive session minutes of June 12, 2024.

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

Mr. Paiva: Scotty Paiva, member. Second,

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

All members say aye in unison

Ms. Short: Any opposition, please say nay. Hearing and seeing none, it is so moved that the executive session minutes of June 12, 2024, are thus approved.

Motion and Vote: Vice Chair Ho moved to approve the Executive Session minutes of June 12, 2024; Board member Paiva seconded; All members voted aye. Motion passed. (10:11 a.m.)

4. UNFINISHED BUSINESS (10:11 a.m.)

a. Petition 2023-10: Review of draft Order Dismissing Petition.

Ms. Short: We will now move on to calling Petition number 2023, the review of a draft order dismissing the petition. Do we have any public testimony on this agenda at this time?

Mr. Paiva: Member Scotty Paiva.

Ms. Wan: So one moment, as far as testimony, nobody signed up. However, I will note that I will need to step away from this particular matter, as our office is conflicted out.

Ms. Short: Ok.

Ms. Wan: So I will do so at this time.

Ms. Short: And Scotty, I know you have a conflict as well and will be recusing yourself.

Mr. Paiva: Yes. Scotty Paiva. I will be recusing myself.

Ms. Short: So at this time, I would like to note for the record that we do not have quorum. So we will be moving petition number 2023-10, to our August Hawai'i County Board of Ethics meeting. Sylvia and everyone, you may please come back. Thank you.

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

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

Ms. Short: At this time, I will call petition 2024-02, the continued review of 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'll call you guys back in.

Ms. Wan: I think we should officially just do a motion for closed hearing.

Ms. Short: Ok. Does someone want a motion for closed hearing?

Mr. Ho: Chris Ho. Move to enter into closed hearing at 10:13 a.m. for petition 2024-02.

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

Ms. Wan: I'm sorry, Deputy Corporation Sylvia Wan. I'll just note that we have heard 2020-02 and I believe that's 2020-04 together previously. So do you want a closed hearing for both?

Mr. Ho: I accept the friendly amendment.

Ms. Wan: Thank you.

Ms. Short: Do I have a second on Chris's motion?

Mr. Paiva: Scotty Paiva, member. Second.

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

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

Ms. Short: Any opposition, please say nay. Hearing and seeing none, this board will enter into closed session to hear petition 2024-02 and dash 06.

Ms. Wan: 04.

Ms. Short: 04. Excuse me. 02 and 04.

Board moves into Closed Session (10:14 a.m.)

Board moves into Executive Session (10:22 a.m.)

Board ends Executive Session (10:33 a.m.)

Board moves into Closed Session (10:35 a.m.)

Board moves into Executive Session (11:16 a.m.)

Board ends Executive Session (11:31 a.m.)

Board moves in Closed Session (11:32 a.m.)

Board ends Closed Session (12:31 a.m.)

d. Petition 2024-05: Review of draft Informal Advisory Opinion.

Ms. Short: Moving on to agenda item number five, new business. Do we have any public testimony on this agenda item? Am I in the right spot?

Ms. Wan: So this is, this is a draft of an informal advisory opinion. At this point in time, Chair, there is no public testifiers scheduled to testify for any other matter on this board's agenda.

Ms. Short: We already dismissed the Chief of Police and his Deputy?

Ms. Wan: No. This is Jack Manini.

Ms. Short: Oh. It's not in here. 05 is empty. Thank you. Thank you. Did everyone have a chance to review the informal advisory opinion on Petition number 2024-05? Friendly reminder, this is the petition of Jack Manini. If everyone wants to take a moment to review it before I sign off.

Ms. Wan: Well, the board has to...

Ms. Short: Oh. Motion for me to sign off on it. Right?

Ms. Wan: To approve it. Yeah.

Ms. Short: Thank you for the clarification, Counsel. Would someone like to motion to approve? Or amend? Or do something with this informal advisory opinion?

Mr. Paiva: Member Scotty Paiva. I move to approve the draft opinion for Petition 2024-05.

Ms. Short: Someone like the 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, please say aye.

all members say aye

Ms. Short: All opposed, please say nay. Motion so passes to inform the informal advisory, approved the informal advisory petition 2024-05 on July 17th. I can sign this right?

Ms. Wan: You can sign this. Well not that one. We gotta get one without the draft.

Motion and Vote: Member Paiva motioned to approve draft informal advisory opinion for Petition 2024-05; Member Nakanishi seconded; all members say aye; motion passes (12:36 p.m.).

5. NEW BUSINESS (12:36 P.M.)

- a. Petition 2024-06: Review of a Petition alleging two County Employees violated the Hawai‘i County Ethics Code.

Ms. Short: Okay. All right. Moving right along. Petition 2024-06, the review of a petition alleging two County employees violated the Hawai‘i County Ethics Code. I'd like to note that the board received an email dated June 6, 2024 from the Chief of Police that he and his Deputy would be unavailable. I understand that the boards Acting Secretary sent this communication to Mr. Christie, and the Chief of Police has also submitted, submitted a written response to the complaint. The Chief is seeking a dismissal of this complaint pursuant to the boards rules. If this board, after having reviewed the file documents, is not prepared to dismiss this outright, the Chief is seeking that the Deputy Chief's dismissal as his only involvement is his name being on the letterhead. Should this board not be willing to grant this partial dismissal, then the Chief is requesting that this matter be continued to August 2024 when he can attend and respond in person. Before we address the request for continuance by the respondents, has the board and everyone received and reviewed the written submittals from the Petitioner and the Respondents? Okay. Are there any motions at this time based solely on the written submissions of the parties?

Mr. Ho: Chris Ho. Move to dismiss Petition 2024-06, pursuant to Board of Ethics rule 4.5 and 4.8 because petition fails to cite the relevant code of ethics alleged to the violation, and the evidence provided fails to meet the burden of showing a probable violation of the Hawai‘i County Code of Ethics.

Ms. Short: Before we call for a vote, I would just like it on the record that I do know Mr. Christie in my capacity a Rabbi. Do I have a second for that motion? But I don't feel that it impacts my ability to make a judgement.

Ms. Wan: Okay.

Ms. Short: Do I have a second for Chris's motion to dismiss?

Mr. Paiva: Member Scotty 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 members say aye

Ms. Short: All opposition, please say nay. Hearing and seeing none, the motion is hereby dismissed. Thank you, Mr. Christie.

Ms. Wan: So the motion passes and the petition is dismissed.

Ms. Short: The motion passes. The petition is dismissed. Thank you very much, Mr. Christie.

Motion and Vote: Vice Chair Ho moves to dismiss Petition 2024-06; Member Paiva seconded; all members say aye; motion passes (12:38 p.m.)

- b. Petition 2024-08: Review of a Petition from a potential Salary Commission nominee (a non-County employee) seeking clearance and guidance regarding a potential conflict of interest.

Ms. Short: At this time we'll call Petition 2024-08, the review of a petition from a potential Salary Commission nominee, a non-county employee who is seeking clearance and guidance regarding a potential conflict of interest. No public testimony on this agenda item?

Ms. Wan: No.

Ms. Short: Okay. Can we get the petitioner to come up for their presence. Oh. Alright. Petitioner withdrew. So let that be noted on the record.

- c. Petition 2024-09: Review of a Petition from a potential County applicant (a non-County employee) seeking clearance and guidance regarding a potential conflict of interest.

Ms. Short: Moving along to Petition 2024-09, the review of a petition from a potential County applicant, a non-County employee, seeking clearance and guidance regarding a potential conflict of interest. No public testimony on this agenda.

Ms. Wan: No, Chair.

Ms. Short: Is the petitioner present for 2024-09? Okay, perfect.

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. I'll just note for the record that this particular petitioner has requested a closed hearing.

Ms. Short: Hi. Could you please state your name for the record and then we'll hear his reason for wanting it closed.

Ms. Wan: Before we get him to state his name since he's asked for a close hearing, and he just acknowledged that he's the petitioner for 2024-09 and to provide his reason.

Ms. Short: Okay. Would you mind please acknowledging that you are indeed the petitioner for Petition 2024-09 and state your reasons for wanting a closed hearing. Oh, you're muted. Please unmute.

Mr. Spielman: Sorry about that. I just got my computer listening here. I just heard the end of your statement. Sorry about that.

Ms. Short: No worries.

Mr. Spielman: I think I heard the question was, why did I request a closed hearing?

Ms. Short: Yes.

Mr. Spielman: Oh. I've never done this before. I checked the box, thinking that this might be an appropriate way to address you. I was hoping to be there in person, but I wasn't able to, so I'm calling in.

Ms. Short: Okay? So do you want a closed hearing or are you okay with an open hearing?

Mr. Spielman: Um... I'm okay with an open hearing.

Ms. Short: Okay. So at this time, we will remain in open session. And if you would please, just state your name for the record and the basis for your petition.

Mr. Spielman: Sure. My name is Aaron Jacob Spielman. State, the question, reason for my petition?

Ms. Short: Yes. The reason for your petition please.

Mr. Spielman: Oh. The reason for my petition. I'm sorry, okay, um, there's an upcoming job opportunity with the County of Hawai'i, Department of Public Works, Building Division as Deputy Building Chief. Sorry, I had that wrong on my application. I am interested to know if some of my current architecture project commitments would be in conflict with HCC Chapter 2, Article 15.

Ms. Short: Anything else you would like to share with the board?

Mr. Spielman: I'm an architect licensed in the State of Hawai'i. I've been practicing my business for the last 10 years. Prior to that, I worked in different architecture offices going back to 2002 in Hawai'i. I've served a number of volunteer volunteer roles over the years, and understand how to separate and keep things confidential and private. We do so with our clients in architecture. We do so, I would expect to do so at the County. I currently serve on the Cultural Resources Commission under Chair Emeritus, serving through December 2027. Among other commitments, I am engaged to provide professional services in a written report and expert witness testimony and arbitration which is not yet scheduled.

Ms. Short: Thank you. Do you have anything else you would like to share with the board?

Mr. Spielman: No. That's the complete statement of my facts. And then I don't know if you want me to repeat my position or contention?

Ms. Short: I think we've got it, right?

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. I'm sorry. I guess I would need, I would think it would help the board, if you could flush out where you think the potential conflict may be?

Mr. Spielman: Okay. Potentially the conflict would be an entity submits a building permit application or some other type of building permit application, and that document, or series of documents, passes my desk. I would need to not take any official action. My tendency

would be to acknowledge and recognize and conflict out on anything that was apparently an issue. But I guess I'm asking is that I have existing agreements in place with clients, and I would like to keep those existing agreements until those projects are complete and not not be in a situation where there's an apparent conflict of interest due to new duties at the Building Division.

Mr. Ho: Sorry, Chris Ho. I have some questions. First off, are you an employee of the County of Hawai'i?

Mr. Spielman: I have just taken on a temporary emergency 89 day hire position. I'm currently serving as Architect II at the County of Hawai'i, Building Division.

Mr. Ho: Okay. So, for 89 days you are an employee of the County?

Mr. Spielman: Correct.

Mr. Ho: Okay. And you have worked as an, well you do work as an architect, but you have worked as an architect for clients who may submit things, and I'm not even going to pretend to know what those things are, to the division in which you work for and and potentially what you're looking at is possibly having some level of approval process for whatever document might be coming before your division? Okay, now I'm caught up with everything.

Mr. Spielman: Or I would add to that, and that's a good synopsis, a possible... In particular, I would be doing code interpretation and code review, building code life safety stuff, and that's, you know, where we wouldn't want an applicant to feel like they were being singled out of course and that I was somehow taking action against them. I mean, that's the thing to avoid, right? So they I guess, if I saw that I recognized as potentially conflicting, I would just step to the side and not be directly involved. There are other people that can do that work.

Ms. Short: So you would conflict out?

Mr. Spielman: Is that the appropriate term? I would just step to the side and say I can't and...

Ms. Short: Recuse yourself from doing that work. Does that sound right?

Mr. Spielman: Yes.

Ms. Short: Okay.

Ms. Nakanishi: So what we had done in the past is we asked for a list of those potential things ahead of time. Would you be able to provide that?

Mr. Spielman: Yes, I can.

inaudible

Mr. Spielman: Yes. I can do so. Do you want me to now or is it something I can submit to the BOE following?

Ms. Nakanishi: No, it's not something you would need to do now.

Ms. Wan: So Deputy Corporation Counsel, Sylvia Wan. I'm just going to clarify on what Member Nakanishi is requesting. So you're asking for his present clients as an architect, a list of them, so that there's the there's an, there's a list as to what matters he would need to conflict out of if those matters come for review in his position as a County employee. Is that correct?

Ms. Nakanishi: That's correct. I know when we, Zendo came before the board, that was the way it was done. And then we did limit it to a time frame of one year.

Ms. Short: Do we have any further questions, Chris? It looks like you have. I see it brewing.

Mr. Ho: I I do. So an 89, it's more of a procedural, not procedural but like a HR question. If an 89 emergency hire is put in place and on the 89th day, you are obviously removed from their position, is there an ability to reinstate them on say the 91st day?

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. As far as the 98, 89 day hires, those contracts are temporary filled positions, and depending on if they can, if the department can justify the extension, if the temporary need has, still exists, they can get authorization from the Department of Human Resources, the county department, to extend that position for an additional 89 days. So that there is potential. It's just there is no guarantee after the 89 days. And if for some reason that position, those positions can sometimes become

permanent. Like they would have to petition, and it would come under a different section.

Mr. Ho: Right. The only reason I'm bringing it up because they said brought up the thing with Zendo and being a year, it would be hesitant to put a time limit on it, because we can't see into the future. We don't know if it'll turn into something that is more permanent that extends far than a year.

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. I think what Ms. Nakanishi was talking about, or referring back to, is that the conflict would still exist for those prior clients up to an additional year. So even if the work with those clients have finished, this particular person would have to recuse themselves from doing any work related to that client, in the future. Please correct me if I'm wrong, Ms. Nakanishi.

Ms. Nakanishi: That is correct. That's the way we handled it before and it seemed to work well.

Mr. Ho: So, follow up with his question, Mr. Spielman. Hopefully I'm saying that correctly. Are you continuing to work as an architect with clients outside of your current emergency hired role?

Mr. Spielman: Yes, good question. I am and I'm serving clients that I have currently under contract agreement, some for several years, some going back as far as 2017. Long-term clients. And I have, I have not, purposefully not, taken on any new work or any new contract commitments, and I'm fencing off those prior commitments, is the idea, and I'll isolate those and provide a list of those. And the intent **inaudible** The intent would be to conflict of those, and not take on any new commitments which would be new conflicts. Does that answer your question?

Mr. Ho: It does. So as it stands right now, the petition in front of us, petition?

Ms. Wan: Yes. It's still...

Ms. Short: Request an informal advisory opinion.

Mr. Ho: What was said, is specifically tailored to understanding if there is conflict currently, right now, within your hired status as an

emergency hire for clients that you have agreements or work with currently? Not necessarily one from past where you have done things and you're work with them has ceased, but you have done the work a while ago. Am I?

Mr. Spielman: Are you? Okay? So was thinking of only including the list for potential conflict of current clients, and then adding on to that list things that could potentially be considered conflicts. And then we would, I would, anything that was in the past, that contract was complete, I was not planning to list because I'm thinking those are complete and done, and I'm no longer obligated under contract to serve those clients. If that makes sense.

Mr. Ho: It does. Sorry, for some reason my brain's firing and all of a sudden I have a whole bunch of questions.

Mr. Spielman: Awesome, right on. I'm here.

Mr. Ho: So in your current. emergency hired role, are you a supervisor in any way shape form, that approves anything that comes before you?

Mr. Spielman: Yes. My understanding is my job description as Architect II means that I supervise the Plan Reviewers, or they're called Plan Examiners, I'm sorry. So the people, the humans that review the submitted building permit applications are under my supervision but I don't directly review the submittals, per se. I answered questions about things related to code.

Mr. Ho: Okay, just because I know nothing, I can barely draw a house on a piece of paper.

Mr. Spielman: It's okay.

Mr. Ho: So if I'm human, find or hire someone to draw up architectural plans for a building that I would like create it, I then take that to the county office of some sort, and hand that in, and then someone looks over it. That one person looking over it, are they approving my plans as submitted?

Mr. Spielman: It's a it's a process. and what you describe is correct, although it's now online via EPIC system. Once the application is received, it goes through a series of people, personnel at different levels that

review different parts of the application, including different agencies depending on the type of permit submitted. For example, a state agency might review a home if it has a individual wastewater system, commonly referred to as a septic tank.

- Mr. Ho: Okay. I think I've exhausted my levels of questions. I'm semi confident in understanding what's going on. Thank you.
- Ms. Short: Do we have any more questions?
- Mr. Spielman: If I could add, I was hoping to get in last month. I was hoping to get in last month. I'm sorry I didn't I was hoping to get in before I actually started the 89-day hire. So what I've done is just set my own protocols as to what I will not be engaging in based on what I perceive to be conflicts of interest.
- Ms. Short: So you are already in this position and acting in this capacity?
- Mr. Spielman: Sorry, yes, I'm currently. As of it was the middle of June.
- Ms. Short: Okay. Okay.
- Mr. Spielman: Ish, like so I've been there for a few weeks. I'm only there two days a week. The County's amenable to to, you know, the continuing of the private practice and ultimately completing my current commitments.
- Ms. Short: Does anyone have any questions? Would someone like to make a motion regarding petition 2024-09, request for an informal advisory opinion.
- Ms. Nakanishi: Member, Denise Nakanishi. I would like to move in response to Petition 20... What is it? 2024-09 the request for clearance from Aaron Spielman to be able to continue his position Deputy Director of the County Building Department with the provision that he provide a list of his current clients and conflict out of anything related to their projects for the next year. Date back to when he started.
- Ms. Short: Friendly amendment, friendly suggestion. Instead of year, can we say completion of this position?
- Mr. Ho: She made a motion. She's gotta get a second before we do...

Ms. Short: Oh. We gotta second.

Ms. Nakanishi: My thought is if he gets hired as a permanent. We don't have to revisit this.

Ms. Short: Okay, can I get a second to that motion and then we'll discuss?

Mr. Paiva: Member, Scotty Paiva. I second.

Ms. Short: Any discussion to be had? So this is where I would say my friendly amendment to the motion.

Ms. Wan: I'm sorry, Chair. Deputy Corporation Counsel, Sylvia Wan. Can I please have Ms. Nakanishi restate the motion? Because there's a little bit of there's a little bit of introduction and I'm trying to write it down.

Ms. Short: Okay.

Ms. Wan: So I'll try to restate it. You can let me know if this is what you stated. You moved that the petitioner, Mr. Spielman, can continue in this position, provided that he conflicts out of the cases in which he is presently an architect, and he provides that list to this board, and he continues conflicting out of those particular prior client, previous and current clients for a year. Is that what you're saying?

Ms. Nakanishi: That's what I'm saying, but I believe the list needs to be provided to supervisor.

Ms. Wan: Okay, and a list would be provided to the supervisor, not to the board.

Ms. Nakanishi: Right.

Ms. Wan: Okay.

Mr. Ho: Chris Ho. Sorry, Mr. Spielman. I have issue with providing a list because what happens in the event that one of the items that's not on the list and he unfortunately forgot to add it on there, has to conflict out. Tell the supervisor to conflict out. The supervisor says, well, according to this list that you gave me, it's not on here, so I don't know what I don't know to do. I'll go ahead and go with

it because he said it was but it wasn't on the list. Additionally, the flip side, if something is on the list, but didn't need to actually get on the list. That I just I'm not a big fan of giving lists to individuals, and I'm glad that we cleared up that it wouldn't come to us, because what are we supposed to do with that information. But I would think that the individual in the position is of high ethical, moral standard, that they would remove themselves from anything that they would have a conflict with.

- Ms. Nakanishi: Board member, Nakanishi. They knew their clients. Are they have a spreadsheet because they bill them. But I do understand what you're saying but there needs to be some safeguard that if he's not there for a day or something, or even for a week, then in the action gets delayed until he gets back when it can just be processed in a different way if they knew there was a conflict.
- Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. As far as the motion that was presented by Member Nakanishi, I don't think there is, how do I say this? There was no directive that the list would necessarily be static. I think that's what was going towards your question or discussion.
- Ms. Short: So could we make the lit, rephrase, list to living document?
- Ms. Wan: So it says, I believe she said past and present clients.
- Ms. Short: So we would maybe need to...
- Ms. Wan: Or maybe I wrote...
- Ms. Nakanishi: Clients
- Ms. Wan: I'm going to defer to Ms. Nakanishi because I...
- Ms. Nakanishi: I do not remember saying past clients because past clients are past clients.
- Mr. Spielman: Can I add anything at this point, or is it internal to the board?
- Ms. Wan: I'm sorry, at this point is only for boards discussion.
- Mr. Spielman: Okay, thank you.

Ms. Nakanishi: Can we request that we hear what he wants? Because he's in the job and he knows best. I've just gone based on precedent. How we handled it before. So can we request?

Ms. Wan: So typically, at this point, once we are into motions, we generally do not receive any more information from the petitioner so that the board can decide on the motion that's on the floor. He can muddle it. I don't know. Maybe, Ms. Nakanishi I know you have some prior experience. Maybe you could maybe elaborate a little bit more on what you're envisioning, as far as this list you're proposing.

Ms. Nakanishi: No, I just know that what they did was just give us a list of his clients, and if it was one on that list, they sent it directly to Jeff Darrow. They just bypassed Zendo so that was, that was all. Not sure what else needs to be clarified.

Mr. Ho: Christ Ho. So, with regards to past, past precedent, is it something that every single division within the County that when they have some type of incidents like this, which I'm sure probably came up with one of our other petitions, that a list is submitted to their supervisor to say, Hey, by the way, here's the people that I have encountered, just so you're aware that I may have to conflict out because of external work that I've done, and here's a listing. Is that's something that is either a policy across the board?

Ms. Nakanishi: You're saying past tense. We're not talking past tense.

Mr. Ho: Right. I'm... I'm done.

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. So as to the opinion that Ms. Nakanishi is referring to for Director Zendo Kern, who's a Director of the Planning Department, he did provide the board with a complete list of all of his past clients that he would conflict out of and that list was given to his Deputy. Now, in that instance, he is the top of that particular agency, so that particular list was published and provided to his Deputy. This particular petition, is because I think what Ms. Nakanishi is drawing to is that this particular applicant is otherwise in a supervisory position. So I think she's making an analogy towards Zendo Kern being as also a supervisor and therefore it would be moved to provide a list. I will note that in other practices, you know, the conflicts might not be as varied and may only be like a few people, not like, you know 10

plus, and then, therefore, the communication as to, I have a conflict would not be as formalized. So if we're talking about a larger number of potential conflicts then there could be a benefit to a list. But has there been a concrete set in stone, how do I say this, barometer from this board, I would have to do further research into past opinions, but as far as the Zendo Kern opinion, I have recently reviewed that. That's what happened in that case.

Ms. Short: So we have a motion on the table. We've had a second. We're having discussion. Do we need to continue our discussion or are we ready to call our vote? Can you maybe, repeat Denise's motion before us? Or Denise, can you repeat your motion? Just so we know?

Ms. Nakanishi: Yeah, I moved that this petition will be advised that he's able to work on projects other than the ones he currently is actively working on by providing us a list, not us, but providing the supervisor a list, and recusing himself from working on these projects for a period of a year.

Ms. Short: Any further discussion to be had? Chris?

Mr. Ho: Sorry. So, he submits the list to a supervisor. At some point the supervisor lets us know that he submitted the list? Is there a time frame? So it's just more a suggestion on our part he should probably do this?

Ms. Wan: No. What is being offered is an informal advisory opinion that would advise that this employee provide a list to a supervisor of all of his conflicts, of all of the clients he has presently. So, that list would not come to the board. That list would go to the supervisor once this, if this informal advisory is adopted, this informal advisory opinion would be submitted to his appointing authority. So basically his big boss.

Mr. Ho: Okay. Thank you.

Ms. Short: Are we ready to vote? All in favor, please say aye.

all members say aye

Ms. Short: Any opposed, please say nay. Hearing and seeing none, the motions so passes on Petition 2024-09. Thank you very much, Mr. Speilman.

Mr. Speilman: Thank you. Am I allowed to say anything?

Ms. Short: Sure, if you want to.

Mr. Speilman: Thank you. I love the idea of the list. I've already given it to my supervisor, so we're on the same page. Thank you very much.

Ms. Short: Thank you for your time, and for being sure you know your due diligence and come before the board.

Mr. Speilman: Thank you. Aloha.

Ms. Short: Have a great day. Aloha.

Motion and Vote: Ms. Nakanishi moves for petition to be able to work on his current private client projects by providing a list to his supervisor and recuse himself from those projects in his capacity as a County employee; Mr. Paiva seconds; all members say aye; motion passes. (1:07 p.m.)

Ms. Short: I would just like to note for the record it is 1:07. I do have to leave at 1:30. Number 6, Executive Session. Can I get a motion from a board member to go into Executive Session.

Ms. Wan: I'm sorry. Deputy Corporation Counsel, Sylvia Wan. I just noticed that we skipped over one item which was 4e, continue review and update of the Board of Ethics Rules of Practice and Procedures. I'm just going to note that they're not yet ready, so I'm going to ask if the board would be willing to continue that matter to the next meeting.

Mr. Ho: Chris Ho. Move to continue item 4e review and update of the Board of Ethics Rules of Practice and Procedures to the next meeting.

Ms. Short: Can I get a second for that motion?

Mr. Paiva: Member Scotty Paiva. Second that motion.

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

Ms. Short: Any opposed, please say nay. Hearing and seeing none, we will continue that to our next meeting. Now moving on to agenda item number 6, Executive Session. Can I get a motion from a board member to enter into Executive Session?

Mr. Ho: Chris Ho. I move that we go into executive session to review confidential financial disclosure forms filed pursuant to Section 2-91.1d of the Hawai'i County Code by County board and commission members and designated County employees or personal matters will be reviewed in where this board may also consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities pursuant to Hawai'i Revised Statute Section 92-5(a)(2), 92-(a)(4), and 92-6(a)(2).

Ms. Short: Can I get a second to that motion? When do you have to go?

Mr. Paiva: As soon as I can.

Ms. Short: Oh. Well then...

Mr. Paiva: As soon as we finish all of our...

Ms. Short: We won't have quorum. So... Are we just.

Ms. Wan: Deputy Corporation Counsel.

Ms. Short: So... Oh. okay,

Mr. Ho: I would then just say no second. It dies, and then he could say something.

Ms. Short: And then he accused, excuse himself in that point we won't have quorum in the meeting on.

Ms. Wan: Yes.

Mr. Paiva: This can continue, right?

Ms. Wan: Yes, so...

Ms. Short: Okay. Motion dies.

Ms. Wan: Motion dies. Scotty, can you please put yourself on the record? Can you please make your announcement to the entire board? About your ability? Your availability?

Mr. Paiva: My availability is I needed to go as soon as all of the urgent agenda items were completed. And request that 6a on the agenda be continued.

Ms. Wan: Okay. Is there a second to the motion?

Ms. Short: Is there a second to the motion to continue agenda item 6a?

Ms. Nakanishi: I second.

Ms. Short: Any discussion to be had?

Ms. Nakanishi: Do we need quorum to review those?

Ms. Short: Yeah, to be in Executive Session.

Ms. Nakanishi: Because we used to just be able to go up there to the office and review them individually. That's how we did it for years.

Ms. Wan: Um. Okay. So, Deputy Corporation Counsel, Sylvia Wan. I'll note as far as the disclosures, in order for it to, it should be reviewed by a majority of the membership in an open meeting which would be now. I understand that during Covid, we took some different procedures around allowing everyone signing it. There has been a conflict of interpretation between the prior Deputy Corporation Counsels. I will clarify with my supervisors as to whether we need just a quorum or if we need the entire membership signing off on all of these financial disclosures because that was under the reason why we needed to come. But at this point, if we're going to lose quorum, we will no longer be able to hold the meeting.

Mr. Paiva: Again, my understanding was same as Denise's that we could go to the office and so I didn't feel like this was a requirement of a quorum. I just did it last month, so.

Ms. Wan: You still need quorum in order to have the meeting open. So...

Ms. Short: In order to continue our meeting.

Ms. Wan: Yeah.

Mr. Paiva: No. I'm talking about reviewing the disclosure forms.

Mr. Ho: Right. So, the review the disclosure forms may not necessarily need quorum to actually read them or review them, but you would need to have quorum in order to fully approve them because just having somebody sign their initials on it, as we have done in the past, come to find out, that's not necessarily approving, appropriately approving all of them and we can't appropriately approve them if we don't have quorum.

Mr. Paiva: Ok. So I'm not needed, so if possible, I would like to excuse myself.

Ms. Short: Okay, so for the record at this time, Scotty is excusing himself. It is 1:12pm at which point we will lose quorum, so this will conclude the Hawai'i County Board of Ethics meeting on Wednesday, July 17, at 1:12pm with our next meeting being held here at the Hawai'i County Council Chambers on August 14, 2024, at 10am.

Ms. Wan: And all other outstanding matters that are presently on the agenda will be continued to that meeting.

Ms. Short: Do I need a motion to adjourn?

Ms. Wan: Um... If he's still here, you can do a motion to adjourn.

Ms. Short: Can I get a motion to adjourn?

Ms. Nakanishi: So moved.

Ms. Short: Any second?

Mr. Ho: Second.

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

all members say aye

Ms. Short: Any opposed, nay? 1:13pm, Wednesday, July 17th, that concludes our Hawai'i County Board of Ethics meeting. Thank you.

Motion and Vote: Ms. Nakanishi motions to adjourn meeting; Vice Chair Ho seconded; all members say aye; meeting adjourned (1:13 p.m.)