

HAWAI‘I COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

Wednesday, October 09, 2024

10:02 a.m. – 11:55 a.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

Lisa Fukumitsu, Member

Denise Nakanishi, Member

Scotty Paiva, Member

Kelly Valenzuela, Member

Sylvia Wan, Deputy Corporation Counsel

Khayla-Lei Peiler, Secretary

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

Ms. Short called the meeting to order at 10:02 a.m. Present in chambers were Rachel Short, Christopher Ho, Lisa Fukumitsu, Denise Nakanishi, and Deputy Corporation Counsel Sylvia Wan. Present via Zoom was Erick Allende.

Ms. Short: Good morning, everyone. I'm chair Rachel short, this is the Board of Ethics Hawaii County, October 9, 2024, this meeting is being held both in person here at the Hilo council chambers, as well as virtually using the zoom platform. I'd like to review some protocols with all of our zoom participants that are present. 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 the audio quality for all and for all zoom participants please raise your hand and wait for recognition from myself before speaking to ensure that we make a clean and clear record. 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 everyone please limit distractions, turn off your phones, mobile devices at this time. As a general reminder for all board of ethics members please state your name without before you speak, prior through our hearing today, I'd like to now do introductions to the board of

ethics members. If we can go down the line and state our names again, I'll go first. I'm your chair. Rachel Short.

Mr. Ho: Chris Ho, Vice Chair.

Ms. Fukumitsu: Lisa Fukumitsu, board member.

Ms. Nakanishi: Denise Nakanishi, board member.

Mr. Paiva: Scotty Paiva, board member.

Ms. Valenzuela: Kelly Valenzuela, board member.

Ms. Short: Thank you. Also present we have Deputy Corporation Counsel Sylvia Wan as well as the Board's secretary Khayla-Lei Peiler who will be assisting us this morning.

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

Ms. Short: Um we'll now move on to public testimony. We'll take statements from the public on agenda items. Public testifiers can testify now or just prior to when your agenda item is called that you wish to testify on our Corporation Counsel, Sylvia Wan will keep time. Everyone gets three minutes. And at two and a half minutes Ms. Wan will announce such. Khayla, do we have any public testifiers at this time. Nope, okay. Thank you.

3. APPROVAL OF THE REGULAR, CLOSED, & EXECUTIVE SESSION MINUTES (10:04 a.m.)

a. Approval of the regular session minutes of September 11, 2024

Ms. Short: Moving right along to Agenda Item 3A, the approval of the regular session minutes from September 11, 2024. Do we have any public testimony regarding this agenda item?

Ms. Wan: No, not at this time Chair.

Ms. Short: Awesome. Has everyone read and had a chance to review the minutes? Can I get a motion regarding the minutes please?

Mr. Ho: Chris Ho. Move to approve regular session minutes of September 11, 2024.

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. Aye.

All members say aye in unison

Ms. Short: Any opposition, please say Nay. Hearing and seeing none the minutes from the September 11, 2024 minutes are so approved.

Motion and Vote: Vice Chair Ho moved to approve the Regular Session minutes of September 11, 2024; Board member Fukumitsu seconded; All members voted aye. Motion passed. (10:04 a.m.)

Ms. Short: Moving on to the approval of the Executive Session minutes from September 11, 2024, did everyone have a chance to review those? Would someone like to make a motion regarding our Executive Session Minutes from September 11, 2024.

Mr. Ho: Chris Ho. Move to approve closed session minutes of July 17, 2024

Ms. Fukumitsu: Board member Fukumitsu, Second.

Ms. Short: Any discussion to be had?

Ms. Nakanishi: Yes. One correction.

Ms. Short: Thank you Denise.

Ms. Nakanishi: On page 10 uh at the top. Fourth line down at the end, it says excepted and it should be accepted. Changes the meaning of the sentence.

Ms. Short: Fourth line down from the top.

Ms. Nakanishi: Right at the end of the sentence.

Ms. Short: Oh. Excepted. It should be a-c-c-e-p-t-e-d. Correct Denise.

Ms. Short: Page 10 in the Executive session minutes fourth line down the last word. Good catch Denise.

Ms. Nakanishi: What? I can't hear you. What?

Ms. Short: I just said good catch. So would we like to amend our motion so we approve the minutes with that change?

Mr. Ho: Chris Ho move to amend inserting the change down on page 10 fourth line in changing the word excepted. E-X-C-E-P-T-E-D to accepted. A-C-C-E-P wait I have to learn to spell.

Ms. Short: A-C-C-E-P-T-E-D.

Mr. Ho: What she said.

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 opposition, please say nay. Hearing and seeing none. The motion passes. The amended motion passes.

Motion and Vote: Vice Chair Ho moved to amend the Executive Session minutes of September 11, 2024; Board member Fukumitsu seconded; All members voted aye. Motion passed. (10:06 a.m.)

Ms. Wan: So the motion has been amended. So now you need to vote on the new, newly amended motion.

Ms. Short: Ok. Can I get motion for the newly amended motion?

Ms. Wan: No you're just calling for the vote.

Ms. Short: Oh. I'm just calling for the vote? Ok.

Ms. Wan: Oh uh unless there's any other discussion.

Ms. Short: Is there any discussion to be had? All in favor. Please say aye.

All members say aye in unison

Ms. Short: Any oppose, please say Nay. Hearing and seeing none the motion passes. Thank you everyone.

Motion and Vote: Vice Chair Ho moved to approve the Executive Session minutes of September 11, 2024; Board member Fukumitsu seconded; All members voted aye. Motion passed. (10:07 a.m.)

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

a. Petition 2024-10: Review of draft Order Dismissing Petition.

Ms. Short: Moving right along, we will call petition number 2024-10 at this time. The review of the draft order dismissing that petition. Do we have any public testimony on this agenda item?

Ms. Wan: Not at this time Chair.

Ms. Short: Wonderful, has everyone on the board read this? Are there any edits or corrections? And if not, may I get a motion to approve and I will sign.

Mr. Ho: Chris Ho. Move to approve Petition 2024-10 review of draft order dismissing petition.

Ms. Fukumitsu: Board member Fukumitsu. Second.

Ms. Wan: Sorry. We are disrupting our Chair. I believe you have a motion on the floor it's been seconded.

Ms. Short: Yep, 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 opposition, please say Nay, hearing and seeing none. The motion so passes. Signing now.

Motion and Vote: Vice Chair Ho moved to approve draft Order Dismissing Petition 2024-10; Board member Fukumitsu seconded; All members voted aye. Motion passed. (10:08 a.m.)

b. Petition 2024-11: Review of draft Order Dismissing Petition.

Ms. Short: Moving along to petition number 2024-11, the review of the draft order dismissing this Petition. Do we have any public testimony on this agenda item?

Ms. Wan: No we do not Chair.

Ms. Short: Perfect. Do we have a motion regarding this petition number 2024-11, if everyone has had time to review accordingly.

Mr. Ho: Chris Ho. Move to approve Petition 2024-11 review of draft order dismissing petition.

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 opposition, please say Nay. Hearing and seeing none the motion so passes I will sign now.

Motion and Vote: Vice Chair Ho moved to approve draft Order Dismissing Petition 2024-11; Board member Fukumitsu seconded; All members voted aye. Motion passed. (10:09 a.m.)

c. Petition 2024-13: Review of draft Order Dismissing Petition.

Ms. Short: Petition number 2024-13, the review of the draft order dismissing this petition. Do we have any public testimony on this agenda item?

Ms. Wan: No we do not Chair.

Ms. Short: Wonderful. Do we have any discussion? If not, I will entertain a motion at this time.

Mr. Ho: Chris Ho, move to approve Petition 2024-13 review of draft order dismissing petition.

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 opposition, please say Nay. Hearing and seeing none the motion so passes.

Motion and Vote: Vice Chair Ho moved to approve draft Order Dismissing Petition 2024-13; Board member Fukumitsu seconded; All members voted aye. Motion passed. (10:10 a.m.)

d. Continued review and update of the Board of Ethics Rules of Practice and Procedures.

Ms. Short: Moving along to our next agenda item, the continued review and update of the boards of ethic rules and practice procedure Deputy Corporation Counsel is there an update as to this?

Ms. Wan: Uh Chair. I'm still working on the updates so we would, I would ask that we could, um, move it along.

Ms. Short: Ok we will move it along. Thank you. Moving right along to new business.

Mr. Ho: Madam Chair? Can we make a motion to move that particular item to the next agenda?

Ms. Wan: Yeah that would probably be the best practice.

Mr. Ho: Uh, Chris...

Indistinct comments from the chamber audience

Ms. Wan: Sir I understand that you have your hand up if you'd like to sign up for public testimony the sign up is over there you can fill it in thank you.

Comments continue from the chamber audience

Ms. Wan: I'm sorry we do not take general questions from the audience. Thank you.

Mr. Ho: Chris Ho. Move to continue action item 4d to the next meeting of the ethics board agenda.

Ms. Short: Can I get a second?

Ms. Fukumitsu: Board member Fukumitsu, 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 we will move that to next month's agenda.

Motion and Vote: Vice Chair Ho moved to continue agenda item 4d Continued review and update of the Board of Ethics Rules of Practice and Procedures to the next Board meeting agenda; Board member Fukumitsu seconded; All members voted aye. Motion passed. (10:11 a.m.)

5. NEW BUSINESS (10:12 A.M.)

a. Petition 2024-14: Review of a Petition from a County officer seeking clearance and guidance regarding a potential conflict of interest.

Ms. Short: Number 5 New Business. Do we have any public testimony on this agenda item?

Ms. Wan: Um Chair, you should probably um just go...

Ms. Short: Petitions.

Ms. Wan: Yeah. But I will note I don't have any presently.

Ms. Short: Ok, awesome. Calling Petition...

Mr. Paiva: Can I interrupt. Member Paiva. I'd like to recuse myself from Petition 2024-14 because I have been lifelong friends with Gerald.

Ms. Short: We'll give Scotty a second to step down and recuse himself from this petition before we call it.

Ms. Wan: Um, okay. I mean, technically, I think you should call it first, and then he recuses. But I understand that's what's happening.

Ms. Short: Okay, so calling petition 2024-14, the review of a petition requesting an informal advisory opinion, Scotty, for the record, is recusing himself, and we invite the petitioner to come up at this time.

Ms. Nakanishi: Chair. I...I also like to note that I do have...hold a liquor license, well actually I think it's, they just cancelled it a couple of days ago. Just for the record.

Ms. Wan: And...And just to clarify with those statements, do you feel that um you have any reason to recuse at this time?

Ms. Nakanishi: I do not.

Ms. Wan: Okay. Thank you. So noted.

Ms. Short: Good morning. Would you please state your name, be sure you push you button for the record.

Mr. Takase: Good morning my name is Gerald Takase I'm the director of Liquor Control for the County of Hawaii. And uh I guess I submitted the petition as a um request by um myself and the um County Auditor. Um, maybe a little background as to why we're here. Um our department is currently undergoing an audit by the auditor. Um one of the questions that was raised was um our travel. And um how our commissioners um I guess are awarded travel um. The question that came up was um I'm a Commission appointee. So the commissioners um I guess direct me to or assign me and um select me. The question came up with whether there's *inaudible* influence by them, by virtue of their position on selection for travel. And um I never thought it was a problem, um but the auditor thought it might be best to come to get kind of a declaratory ruling on the case. Um so that's why we're here. Um we um we have a procedure that we use when we award travel. Um usually I go um first to the... I have two boards, a liquor commission and a liquor adjudication board, nine members on the commission, five members on the Adjudication Board. Usually when we um put out their requests for travel during the year, I first go to the two Chairman, and I allow them to select if they would like to attend or not, then I go down to the Vice Chairman, and then after that, I go by seniority, you know whose been in the longest. So um and that's been our unwritten um I guess procedure. I did talk to the auditor, and I think one of his recommendations

was we write it up. And um we're in the process of writing that up. So that's the uh where we stand. I will say, from my um position, that uh I've never had what I would perceive, any questions or undue influence by any members of the commission or the board as to you know "I want to travel her or there. And you know you should, you better let me do that." So I...that's why I say I don't know why we really had to come because it's not a because it's not a current question, and I don't foresee it based on uh members that are on the commission or the board for now but I...I see maybe you know I think the auditor talked about, well, it could become a problem at some point in time, but um... I don't really see it from the people that sit on the board, you know, similar to you folks, they're all volunteers, but um you know, they're not... I don't see that they're in it for personal gain or anything like that. And I... I have a lot of respect for them, so I felt kind of bad coming here like they're doing something wrong and I... I want to say it clearly that you know they have done nothing wrong, and there's never been any question in my mind about it. So I guess that would be my *inaudible* so I think what we needed from you folks is just that either the um procedure is fine and there's no finding that there's any conflict um by the commissioners towards myself.

Ms. Short: Thank you very much for your testimony. Does anyone have the board have questions at this time?

Ms. Nakanishi: Gerald I have a question. Are you talking about just interisland or I mean um you know from here to Kona or interisland, mainland?

Mr. Takase: No. We also have um mainland trips that we send them to. You know um Department of Liquor Control is kind of controlled by three sets of rules, Federal rules, State rules, and the County rules so most of the state and federal rules well federal rules I guess I should say, come from training that we receive off of island and um, it's kind of a unique circumstance that we're required to enforce those rules as well, even though there's really no um local um interaction with them so um that's kind of our only chance to um receive that type of training.

Ms. Nakanishi: And...And so if it's a mainland trip how do you select whose going at this time? If it's not in writing?

Mr. Takase: So I offer it to the Chair people first, then Vice Chairs, and then I work my way down through seniority.

Ms. Short: Is that like written somewhere? That... that procedure you take or is that just your way of doing it? Just for clarification.

Mr. Takase: It was not written prior to that. I actually wrote it up since then, so I have copies available.

Ms. Short: Okay, yeah that would be great. How long have you been doing this procedure that you're presenting.

Mr. Takase: So I've been the Director for 13 years now and um probably I think about 12 of those years I've done that. Um, I... I kind of wanted to provide a fair system to all of them to travel. So that's... that's how I kind of came up with this procedure.

Ms. Short: I missed that at the beginning. How long have you been had this procedure in place you'd say?

Mr. Takase: I said I've been in for about 13 years so at least 12. I don't know specifically when I started.

Ms. Short: Okay so about 12 years this has been the procedure.

Mr. Takase: Yes.

Ms. Short: Okay. Does anyone else on the Board have questions?

Mr. Ho: Chris Ho. I have a few questions. Thank you Mr. Takase for being here. Um question, the first one, so you said that there's two separate components um within that so there's Liquor Commission and then there's the Adjudication Board. When you're determining what type of trainings to attend are there ones that are specific? Let me back up my apologies, what's the difference between the two Boards?

Mr. Takase: So the commission will hear um licensee's cases, they award applications and they grant the license to the um licensees. Um if there's complaints or anything uh concerns they will hear those and if necessary condition the license upon it. Um I'd say you know by and large, we're able to address any of the concerns that come from the public. A lot of times we'll get um you know licensees come up and uh say in Kona particularly down on Alii Drive there's concerns that they're going to make noise and things like that so

um rather than waiting for the actual hearing to come up we will help assist uh meeting with the potential licensees and the public and try to fashion a um solution for both sides. And usually it's just a matter of setting some parameters in terms of how long entertainment is going to run. Those things making them aware that they have um... um some obligation to make sure that their patrons leave you know in an orderly fashion and um I'd say that we've been very effective at doing that and we haven't had a problem, and that's primarily the Commission's role. The adjudication board will hear violations. Um so once somebody violates our rules or state law, citations are issued, and those case come before the liquor adjudication board. So it's a five-member board that will hear the case, decide whether there's a violation or not, and then um administer punishment.

Mr. Ho: Okay. Thank you very much for that. I was personally trying to figure out what was happening. So which of those two boards determines if your position will be filled by you?

Mr. Takase: The Commissioners.

Mr. Ho: So the Commission side not the Adjudication side.

Mr. Takase: Yes. So, I'm a commission appointed um Director. There's I think 4 in the County um. Myself, the Human Resources director by the Department of Civil Service, the Water manager um by the Water Commission and the Fire Commission and Police Commission appoint the Chief's of those respective departments.

Mr. Ho: Okay so when you're in your position and you're looking at what type of training um you would want to send individuals to um are they training that are open and available and would serve the benefit of both groups? Or is it looking for one that benefits one versus the other?

Mr. Takase: I would say by and large they, they are probably more commission related, but you know the adjudication board kind of gets into the mix too cause they need to understand what's happening in the licensees. So it... it's I think it serves a purpose for both of them.

Mr. Ho: Okay.

Ms. Nakanishi: So Gerald. Just to clarify. Cause they probably *inaudible* the liquor commission is or liquor board is self-supporting right?

Mr. Takase: Yes so...

Ms. Nakanishi: You don't use federal... uh you don't use County funds.

Mr. Takase: Yeah the Liquor Department is totally self-funded. Our funding comes from the uh licensees fund so there, there are no County funds um spent by the... in fact we reimburse the County for a lot of the other expenses um our um you know like we have Corp Counsel assigned to us so we pay what's it called fringes back to reimburse the County for those types of expenses.

Ms. Short: Does anyone have more questions at this time? Um, do we have any motions at this time based on the information presented before us?

Mr. Ho: Chris Ho. Move to find no conflict with...

Ms. Wan: Do you need a moment to draft?

Mr. Ho: Yeah. I kinda do. Sorry I just looked at it and it just left my head.

Ms. Wan: Okay, um do you want to do a recess in place or do you want to do a timed recess Chair?

Ms. Short: Let's call for a five-minute recess. It's 10:25 we'll reconvene at 10:30. Thank you everyone.

Ms. Wan: Thank you.

Board calls for a five-minute Recess (10:25 a.m.)

Board returns from Recess (10:31 a.m.)

Ms. Short: Hawaii County Board of Ethics reconvening at 10:31 a.m. We are on Petition 2024-14. I believe we were entertaining a motion at this time?

Mr. Ho: Madam Chair with your permission I'd like to ask one more question.

Ms. Short: Absolutely.

Mr. Ho: Before we begin. Thank you um Mr. Takase I have a quick question with what you provided to us, would you say that this is the um just uh like a introductory to the policy? Is it a little bit more than this? Or is it just this?

Mr. Takase: Uh well I just jotted down what I've been following so it's, I think that's about it really. There's not, it's not that complicated I guess a procedure.

Mr. Ho: Okay. Thank you. I'm ready to move forward.

Ms. Short: Please, Vice Chair.

Mr. Ho: Chris Ho. Move to find no conflict as long as the Department creates, in writing, their current policy and follows the written policy, should any alteration or change to the policy be created it is suggested to bring them to this board for comment before enacting said.

Ms. Wan: So, Deputy Corporation Counsel Sylvia Wan. Just to clarification on the motion, when you say before the board, are you saying the board of ethics? Or are you saying the the liquor commission and liquor adjudication? Since that's the policy in which it would be affecting.

Mr. Ho: I would say both.

Ms. Wan: What? What is both? Can you articulate?

Mr. Ho: Yes. Um bring them to both Liquor Commission and Adjudication Board but also to the Ethics Board.

Ms. Short: So all three Boards.

Ms. Wan: Okay. Is there... Is there a particular reason that you would see that there's a conflict to come back before this board again?

Mr. Ho: The only way I see it is it's already here now, one time, because there were questions that arose from uh someone else looking at it. So if something were to change, with what's already there what's to stop there from being more questions. But that's kind of going

down a rabbit hole, so I'll leave us out of it until such time as it may be deemed necessary that we have to go to that extreme. So just the Adjudication and the Liquor Commission Boards.

Ms. Wan: Okay and since there was this back and forth regarding your motion can you please restate your motion?

Ms. Short: And maybe mention the two liquor boards where it said before the board.

Mr. Ho: Alright Chris Ho. Move...sorry since I had already made the motion...

Ms. Wan: It's not completed. It wasn't seconded yet.

Mr. Ho: Okay I just wanted to make sure for the record that particular section died so I get to start over?

Ms. Wan: Yes.

Mr. Ho: Awesome. Um Chris Ho. Move to find no conflict as long as the Department creates in writing their current policy and follows their written policy, should be any alterations or changes to the policy be created it is suggested to bring them to the Liquor Commission Board and the Liquor Adjudication Board before enacting said changes.

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

Ms. Fukumitsu: Board member Fukumitsu. Second.

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

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

Ms. Short: Any opposition, please say nay. Hearing and seeing none the motion so passes.

Mr. Takase: Thank you very much.

Ms. Short: Thank you so much for your time. And you'll be getting something formally in writing in response to this.

Ms. Wan: So the draft of the Opinion will be on next month's agenda.

Ms. Short: Thank you.

Ms. Wan: Deputy Corporation Counsel Sylvia Wan. I'll note the return of member Scotty Paiva.

Motion and Vote: Vice Chair Ho moved to find Petition 2024-14 in no conflict; Board member Fukumitsu seconded; Five members voted aye. One member recused. Motion passed. (10:35 a.m.)

b. Petition 2024-15: Review of a Petition alleging a County Officer violated the Hawai'i County Ethics Code.

Ms. Short: At this time we will call Petition 2024-15 the review of a petition alleging a county officer violated the Hawaii County ethics code. I'd like to take note that this Board did receive a written response to this complaint from the respondent seeking a dismissal as well as a request for a closed hearing. Before we address the request for a closed hearing has the board and everyone received and reviewed the written submittals from the petitioner and respondents. Perfect. Are there any motions at this time based solely on the written submissions of the parties.

Mr. Ho: Chris Ho, move to dismiss due to the Petition being speculative and frivolous based on the submitted material and not sufficient to allege violation of the Hawaii County's code of ethics.

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

Ms. Fukumitsu: Board member Fukumitsu, second.

Ms. Short: Is there any discussion to be had?

Ms. Nakanishi: I...I need to recuse myself.

Ms. Short: Okay. Okay. So for the record we'll show that Denise is leaving at the moment.

Ms. Wan: I'll just note you're still in discussion and you still have quorum.

Ms. Short: We have a motion on the table is there any discussion to be had regarding the motion to dismiss Petition 2024-15? 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. Hearing and seeing none. The motion so passes Petition number 2024-15 is dismissed.

Motion and Vote: Vice Chair Ho moved to dismiss Petition 2024-15; Board member Fukumitsu seconded; Five members voted aye. One member recused. Motion passed. (10:38 a.m.)

c. Petition 2024-16: Review of a Petition alleging a County Employee violated the Hawai'i County Ethics Code.

Ms. Short: Moving right along to Petition 2024-16. The review of a petition alleging a county employee violated... oh, Denise come back. Sorry. We'll take a recess in place for a moment to allow Denise to come back and rejoin us. So let the record reflect Denise is rejoined the Board. Calling Petition 2024-16 the review of a petition alleging a county employee violated the Hawai'i County Ethics code. I'd like to take note that this board received a written response to this complaint from the respondent seeking a dismissal, as well as a request for a closed hearing. Before we address the request for a closed hearing has the board received and reviewed the written submittals from the petitioner and the respondents? I see everyone nodding their heads, yes. Are there any motions at this time based solely on the written responses of the parties?

Mr. Ho: Chris Ho, move to dismiss due to the petition being speculative based on the submitted material and not sufficient to allege a violation of Hawai'i County's Code of Ethics.

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

Ms. Fukumitsu: Board member Fukumitsu, second.

Ms. Short: Any discussion to be had?

Ms. Nakanishi: I think we need to hear the petition. So I won't be voting. I'll be voting...

Mr. Paiva: Member Paiva same.

Ms. Short: Okay so at this time is there any further discussion? It sounds as though Denise and Scotty would both like to hear the petition.

Ms. Wan: You just call for a vote.

Ms. Short: We just call for a vote. Okay. So all in favor of dismissing Petition 2024-16 with the motion on the table please say aye.

Mr. Ho: Aye.

Ms. Fukumitsu: Aye.

Ms. Short: Any opposition please say nay.

Mr. Paiva: Nay

Ms. Nakanishi: Nay

Ms. Valenzuela: Nay

Ms. Short: The motion dies, I believe we hear the petition.

Motion and Vote: Vice Chair Ho moved to dismiss Petition 2024-16; Board member Fukumitsu seconded; Three members voted aye. Three members voted nay. Motion died due to lack of quorum in the affirmative. (10:40 a.m.)

Ms. Short: So...

Ms. Wan: You're going to have, so now you can move on to the next question, which is open or closed hearing.

Ms. Short: Okay so based on the information provided um you're requesting a closed hearing is that correct.

Mr. Tucker: I am not.

Ms. Wan: No, no. The respondent is.

Ms. Short: The respondent is. Do we have the respondent? Present? Do we want to hear from the respondent why they would like a closed hearing at this time?

Ms. Wan: Is the respondent present in the room? Can you come forward?
Yes. I'm sorry could you please step-down um Petitioner. So that we can hear from the Respondent. Thank you.

Ms. Short: Good morning if you could please state your name for the record.

Mr. Lee: Daniel Lee. And I made that request...

Ms. Short: Can you push your button? And state your name one more time please.

Mr. Lee: Daniel Lee. And I made that request so that if necessary I could freely speak and make some comments on the structural engineer.

Ms. Short: Um, okay so. Without revealing confidential details that's your reason for requesting a closed hearing.

Mr. Lee: Right.

Ms. Short: Okay.

Mr. Lee: If necessary.

Ms. Short: Uh based on the information provided by the respondent is there a motion to enter closed session?

Ms. Nakanishi: Board member Nakanishi, so moved.

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 of moving to closed session please say Aye.

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

Ms. Short: Any oppose please say nay. Hearing and seeing none. The motion passes we'll give a moment to move into closed session so everyone who...

Ms. Wan: So at this time any member who is not a party to this particular petition will need to be removed from the room. The parties which would be the Petitioner and the Respondent can stay in the room. If

there are any... just note that um we wouldn't be hearing it... from any witnesses at this time it would just be the Petitioner and the Respondent.

Motion and Vote: Board member Nakanishi moved to enter into closed hearing; Board member Paiva seconded; All members voted aye. Motion passed.. Motion passed. (10:43 a.m.)

Board moves into Closed Session (10:43 a.m.)

Board moves back into Regular Session (11:41 a.m.)

Ms. Short: Moving on to Agenda Item number six, Executive Session, can I get a motion from a board member to go into Executive Session, please?

Mr. Ho: Chris Ho. Move to go into executive session to review confidential financial disclosure forms filed pursuant to Section 2-91.1(d) of the Hawaii County Code of... Sorry, County Code by County board and commission members and designated county employees where personal matters will be reviewed and 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 Hawaii revised statutes Sections 92-5(a)(2), 92-5(a)(4), and 92-6(a)(2).

Ms. Short: Can I get a second?

Ms. Fukumitsu: Board member, Fukumitsu. Second.

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

All members say aye in unison

Ms. Short: Any opposed, please say nay. May the record reflect that the motion carries with all votes in favor. At 11:43 a.m. we will move into Executive Session.

Motion and Vote: Board member Ho moved to enter into Executive Session; Board member Fukumitsu seconded; All members voted aye. Motion passed. (11:43 a.m.)

6. EXECUTIVE SESSION

Board moves into Executive Session (11:43 a.m.)

Board ends Executive Session (11:53 a.m.)

Ms. Short: Moving right along to number seven agenda item announcements. The next monthly meeting of the Hawaii County Board of Ethics is scheduled for Wednesday, November 13 at 10 a.m.

Ms. Wan: Nope no...

Mr. Ho: Madam Chair wait one second.

Ms. Wan: I'm sorry Chair can we go back to the prior agenda item? Um yes to agenda item six. There should be a motion to close out the matters that were heard in Executive Session.

Ms. Short: Oh, can I please get a motion from a board member to close out all matters that we heard in Executive Session?

Ms. Wan: Or rather accepted.

Ms. Short: Or accepted, rather, in Executive Session? Can I get a motion from a board member to accept everything that we accepted during executive session?

Mr. Ho: Chris Ho move to accept um agenda items, 6 A, B and C.

Ms. Short: Does that suffice?

Ms. Wan: Yeah, you can accept and file.

Ms. Short: Okay.

Mr. Ho: Accept and file um agenda item 6 A, B, and C.

Ms. Short: Perfect. Can I get a second to that motion please?

Ms. Fukumitsu: Board member, Fukumitsu. Second.

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

All members say aye in unison

Ms. Short: Any opposition, please say Nay. Hearing and seeing none. The motion so passes.

Motion and Vote: Vice Chair Ho motions to approve item 6A, 6B and 6C; Board member Fukumitsu seconded; All members voted aye; Motion passed. (11:55 a.m.)

7. ANNOUNCEMENTS (11:55A.M.)

- a. The next monthly meeting of the Board of Ethics is scheduled for Wednesday, November 13, 2024, at 10:00 a.m. at the Hawai'i County Building, Council Chambers, 25 Aupuni Street, Hilo, Hawai'i 96720.

Ms. Short: Moving on to Agenda Item number 7, which is our announcements. The next monthly meeting of the Hawaii County Board of Ethics is scheduled for Wednesday, November 13, at 10 a.m. here at the Hawaii County Building, Council Chambers, 25 Aupuni Street, Hilo, Hawaii 96720.

8. ADJOURNMENT (11:55 A.M.)

Ms. Short: Moving along to Agenda Item 8. 11:55 a.m. May I get a motion to adjourn?

Ms. Nakanishi: I move we adjourn. Board member Nakanishi.

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

Ms. Fukumitsu: Board member Fukumitsu. Second.

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

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

Ms. Short: Any opposition, please say nay, hearing and seeing none the motion passes 11:55 a.m. this concludes our Hawaii County Board of Ethics meeting. Thank you everyone for your time and for being here.

Motion and Vote: Board member Nakanishi moved to adjourn the Hawaii County Board of Ethics meeting; Board member Fukumitsu seconded; All members voted aye; Meeting Adjourned. (11:55 a.m.)

Respectfully submitted:

Khayla-Lei Peiler, Secretary