

HAWAI‘I COUNTY BOARD OF ETHICS

MINUTES – REGULAR SESSION

Wednesday, December 11, 2024

10:00 a.m. – 11:31 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

Sylvia Wan, Deputy Corporation Counsel

Khayla-Lei Peiler, Secretary

Noah Agustin, Secretary Assistant

1. CALL TO ORDER (10:00 a.m.)

Ms. Short called the meeting to order at 10:00 a.m. Present in chambers were Rachel Short, Christopher Ho, Lisa Fukumitsu, Denise Nakanishi, Scotty Paiva and Deputy Corporation Counsel Sylvia Wan. Also present were Secretary Khayla-Lei Peiler and Secretary Assistant Noah Agustin.

Ms. Short: Good morning everyone, I am Chair Rachel Short. Ooh, we have a real-, let it go-, give us a moment for technical difficulties. Okay. Good morning everyone, I'm your chair, Rachel Short. This is the Hawaii County Board of Ethics meeting for December 11, 2024. Our meeting is being held both in person at the Hilo Council Chambers, as well as virtually using the Zoom platform. I'd like to review some protocol real 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 from myself before speaking to ensure we make a clean and clear record. Prior to speaking, everyone, please state your name, those present and board members as well, reminder, just so all parties know who is speaking. Speak slowly, clearly, and be close to your microphone, and if everyone at this time could please limit distractions by turning off any cellular

telephones or other mobile devices. And again, as a general reminder for all our Board of Ethics members, please state your name before speaking throughout our hearing today. Um, I'd like to now do introductions to everyone here before you on the Hawaii County Board of Ethics. I will go first. I am 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. Short: Also present, we have Deputy Corporation Counsel, Sylvia Wan, our Board's Attorney, as well as Khayla-Lei Plier, Peiler, excuse me, Board of Ethics Secretary, who will be assisting, as well as Noah, who is...

Ms. Wan: Agustin.

Ms. Short: ...Agustin, who is assisting her.

2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS (10:02 a.m.)

Ms. Short: We, at this time, we will welcome any statements from the public on agenda items. Public testifiers can testify now, or just prior to the agenda item they wish to testify on. Deputy Corporation Counsel, do we have any public testimony signed up at this time?

Ms. Wan: Uh, Chair we do not have any, uh, oral testimony to be presented at this time. I will note, we do have one piece of testimony that is written that I'll present to the board, um, at that agenda item, and that's for petition 2024-19.

Ms. Short: Okay, thank you very much.

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

a. Approval of the regular session minutes of November 13, 2024

Ms. Short: So, moving right along to the approval of our regular session minutes from November 13, 2024. Do we have any public testimony regarding our minutes? Not seeing any testimony-...

Ms. Wan: No.

Ms. Short: ... at this time, I will entertain a motion for an approval of our minutes from the November 13, 2024, Board Meeting of Ethics.

Mr. Ho: Chris Ho, move to approve regular session minutes of November 13, 2024.

Ms. Fukumitsu: Board Member Fukumitsu, second.

Ms. Short: Any discussion to be had?

Ms. Nakanishi: On page five, I-, it says I said oh God? I don't think I said oh God. It's not a big thing, I just want to note that I do not believe I said oh God. I might've said oh good. Anyway, probably doesn't need to be corrected, but I do want to note it.

Ms. Short: Should we get a motion to remove oh God from the record? From the minutes?

Ms. Wan: Um so, we had a motion to approve, um, you could, someone-...

Ms. Short: Approve with a modification?

Ms. Wan: ...yeah, on, on page five to change the word God to good.

Ms. Short: Okay.

Ms. Wan: So just insert an O.

Mr. Ho: Chris Ho, move to amend, um, regular session minutes of November 13, on page five, um striking God and inserting Good, um, for Ms. Nakanishi.

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

Mr. Paiva: Board Member Paiva, second.

Ms. Short: Any discussion to be had? Hearing and seeing none, I will 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, the motion so passes.

Ms. Short: Moving right along to the-...

Ms. Wan: Nope, that was just for the amendment. Now you still need to approve the underlying motion.

Ms. Short: Oh, may I get a mo-, a vote, I'm going to call for the vote, to approve the underlying motion to approve the regular session minutes from November 13, 2024, with that amendment. 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 is approved and passes.

Motion and Vote: Board member Ho moved to approve and amend the Regular Session minutes of November 13, 2024; Board member Fukumitsu seconded; All members voted aye. Motion passed. (10:05 a.m.)

b. Approval of the executive session minutes of November 13, 2024

Ms. Short: Moving right along to the approval of our executive session minutes from November 13, 2024. I don't believe we have any public testimony on that agenda item at this time.

Ms. Wan: No Chair.

Ms. Short: Okay. So, has everyone had a chance to read the executive session minutes from November 13, 2024? Assuming and seeing everyone nodding their head yes, can I get a motion to approve those minutes?

Mr. Ho: Chris Ho, move to approve the executive session minutes of November 13, 2024.

Ms. Short: Can I get a second?

Mr. Paiva: Member Paiva, second.

Ms. Short: Any discussion to be had? Seeing that there's 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.

Motion and Vote: Board member Ho moved to approve the Executive Session minutes of November 13, 2024; Board member Paiva seconded; All members voted aye. Motion passed. (10:06 a.m.)

4. UNFINISHED BUSINESS (10:06 a.m.)

a. Petition 2024-17: Review of draft Amended Informal Advisory Opinion.

Ms. Short: Moving right along to agenda item four "a," unfinished business, calling petition number 2024-17, the review of the draft of an informal advisory opinion. Do we have any public testimony on this agenda item at this time?

Ms. Wan: No Chair.

Ms. Short: Has everyone read the informal advisory opinion draft? Seeing everyone nod their head yes, I will now call for a motion at this time to approve the informal advisory opinion.

Mr. Ho: Chris Ho, move to approve informal advisory opinion for petition 2024-17.

Ms. Short: May I get a second?

Ms. Nakanishi: I second, Board Member Nakanishi.

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, that motion thus passes.

Motion and Vote: Board member Ho moved to approve the draft Informal Advisory Opinion for Petition 2024-17; Board member Nakanishi seconded; All members voted aye. Motion passed. (10:07 a.m.)

5. NEW BUSINESS (10:07 A.M.)

a. Review Board of Ethics Meeting Dates

Ms. Short: Moving right along to new business-...

Ms. Wan: Do you want to sign it?

Ms. Short: ...do you want me to sign it right now?

Ms. Wan: Uh, I'm just asking. Do you want to go ahead and sign it?

Ms. Short: Oh, yeah.

Ms. Wan: It should be within your-, is it on the cover?

Ms. Short: Let the record reflect, I am signing the informal advisory opinion that we just motioned to approve. Eleven?

Ms. Wan: Yes.

Ms. Short: Moving along to agenda number five, new business, to review and accept the 2025 Board of Ethics Meeting Schedule. Deputy, Deperation-, Deputy Corporation Counsel, do we have any public testimony on this agenda item?

Ms. Wan: We do not, but, um, I do have a moment for comments, I guess maybe once, once there's a motion.

Ms. Short: Okay. Has everyone reviewed our 2025 Board of Ethics Meeting Schedule? Seeing everyone nod their head yes, may I get a motion to approve and accept the 2025 Board of Ethics Meeting Schedule?

Mr. Ho: Chris Ho-...

Ms. Wan: It, it should be, um, to accept and file.

Mr. Ho: May I get a motion to accept and file the 2025 Board of Ethics Meeting Schedule?

Mr. Ho: Move to approve and file the 2025 Board of Ethics Meeting Schedule.

Ms. Short: May I get a second on that motion?

Mr. Paiva: Member Paiva, Second.

Ms. Short: Any di-, at this time, any discussion on our schedule?

Ms. Wan: Um, so, Deputy Corporation Counsel, Sylvia Wan. I'm just-, I mean-, I-, I'm obviously not a member, but I did want to just provide, um, a little bit of commentary for the board. I, I will note that the vast majority of these dates are not on our usual second Wednesday of month. Um, that is because of the unavailability of the council chambers on our preferred days. So, by the time we were requesting, um, reservations for this room, those dates were no longer available, and because this Board always presents in the council chambers because of its capability and it's central location, um, we wanted to maintain that, thus, the dates are a little all over the place because it's when the room was available. I'll also note based on, um, polling from the board, um, and a request for having at least an option for some Kona dates, uh, there are four dates that are present within the tentative schedule that are optional Kona dates. So, if the Board so chooses, based on the need of a particular petition, we at least have the option for holding, um, this board meeting in Kona. So, those are my comments.

Ms. Short; So, can I get a clarification on that real quick, Sylvia...

Ms. Wan: Sure.

Ms. Short: ...because that was my question. So, here. Thursday, March 20, Friday, March 21, tentative.

Ms. Wan: Yes.

Ms. Short: Is that meaning that we will then determine whether we will be meeting Thursday or Friday? Because I don't think we'd be having back-to-back Board of Ethics meetings.

Ms. Wan: No, no, you would not be having uh back-to-back. It would-, it would basically be an option. So, in February, the Board can choose. Are you going to have the March date...

Ms. Short: Okay.

Ms. Wan: ... in Hilo, or are you going to have your March date in Kona?

Ms. Short: Okay-...

Ms. Wan: Right?

Ms. Short: ...so, the clarification is, um, we will-, if there is a tentative date in Kona, we will determine at the Board meeting prior whether we will be meeting in Hilo or Kona.

Ms. Wan: Yes.

Ms. Short: Okay. Thank you for the clarification.

Ms. Wan: And, and I will just note that historically, this Board has always met in Hilo, um, and the option for the Kona dates was a response to a request and desire from some of the petitioners to be able to present from Kona. Although, I'll note it is a very small percentage of your petitions annually.

Ms. Short: Thank you.

Mr. Ho: Uh, I just wanted to, uh, make sure that we all know, I will-, due to work constraints, um, with these particular dates, I cannot make the first three months. I cannot come back until April. I have events that I cannot get out of. For all three of those months.

Ms. Wan: Okay, that's noted.

Mr. Paiva: And then also, the January meeting, I won't be available for this date.

Ms. Wan: Which one?

Mr. Paiva: January.

Ms. Wan: Okay.

Mr. Paiva: I'll be travelling. Prior reservations.

Ms. Short: So, we'll just have to determine whether or not we'll have quorum at those dates.

Ms. Wan: Yeah, we-, I mean, the quorum will be determined month to month. I, I will note that we don't have our full board in front of us today. We do-, we still have two other members who are not present. Um, just because-, I know two members are, are verbally stating on the record today that they would not be available on certain dates, that doesn't necessarily mean the board could not meet.

Ms. Short: Correct.

Ms. Wan: Um, as long as we have the attendance of enough members to make quorum.

Ms. Fukumitsu: And we're losing Denise.

Ms. Short: But it also-, my understanding is we're going to be receiving some new nominations from the Mayor's office. I believe.

Ms. Wan: So hopefully, if there's any disruption, it is short lived.

Ms. Fukumitsu: Yes.

Ms. Short: Okay.

Ms. Fukumitsu: Because-, because Denise's last day...

Ms. Short: Is today.

Ms. Fukumitsu: Board Member Fukumitsu-, yeah, so, then that leaves one, two, three, four, five six, minus two is four, oh-, yeah-, it's tight, okay.

Ms. Wan: Tight, but not impossible.

Ms. Short: Okay. Any further discussion to be had? I'll remind everyone we do have a motion on the table at this time. Seeing no further discussion, 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, the motion thus passes.

Motion and Vote: Board member Ho moved to approve and file the dates for the 2025 Board of Ethics Meeting Schedule; Board member Paiva seconded; All members voted aye. Motion passed. (10:13 a.m.)

b. Petition 2024-19: Review of a Petition from a County Employee seeking clearance and guidance regarding a potential conflict of interest.

Ms. Short: Moving on to agenda item five “a”, calling petition 2024-19, the review of a petition from a county employee seeking clearance and guidance regarding a potential conflict of interest. Do we have any public testimony on this agenda item, corp. counsel?

Ms. Wan: Uh yes, actually. For this agenda item, we did receive a written testimony this morning. Um, at this point in time, I-, prior-, prior to us calling this agenda item, I did provide a copy to the petitioner, who will be unnamed at this point, because they have requested a closed hearing. Before we get to that, I'm going to hand out the written testimony to the members. So chair, would you like to at least provide a amount of time for the members to review that?

Ms. Short: So, let the record reflect, corp. counsel is going to give us written testimony, and is seven minutes enough time for everyone on the board to review?

Ms. Fukumitsu: Yes.

Ms. Short: Okay. So, 10:21, we will reconvene. We'll take a recess to review, and if you need a bathroom break.

Ms. Wan: Okay.

Members take a short recess

Ms. Short: Reconvening at 10:21 a.m., reminding everyone we are still on petition 2024-19, the review of a petition from a county employee seeking clearance and guidance regarding a potential conflict of interest. Let the record show that the Board was distributed written

testimony that we did review during this-, that recess. At this time can we please get the petitioner to come up to the microphone, and state your name for the record-...

Ms. Wan: Nope, not yet.

Ms. Short: ... Oh, not yet. Excuse me.

Ms. Wan: I'm sorry, um, I forgot to write in, but, uh, this petitioner did request a closed hearing.

Ms. Short: Oh.

Ms. Wan: So, go through that first.

Ms. Short: So, we probably need to enter into executive session?

Ms. Wan: You can ask the petitioner, um, the-, the basis for asking for a closed hearing, so you can make that determination, and then if so moved, then the-, the board can enter closed hearing.

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

Ms. Wan: Not name.

Ms. Short: Not name. Explain why you would like a closed hearing first, sorry about that.

Petitioner: Uh, for the reason I'm here, potential conflict of interest because I'm currently employed with the real property tax department. So, I didn't want my-...

Ms. Wan: So, it has to do with financial matters?

Petitioner: Potentially, yes.

Ms. Wan: Okay, thank you.

Ms. Short: So, the petitioner is refle-, is stating that they would like to closed hearing, becau-, due to, um, potential matters regarding financial things that could arise?

Ms. Wan: Um, yes, so it has to do with seeking an opinion related to their employment. Maybe, it-, that would affect their...

Ms. Short: Okay.

Ms. Wan: ...financial interests.

Ms. Short: Hearing that as a Board, would someone like to, um, motion to approve or deny the request for a closed hearing?

Mr. Paiva: Member Paiva, I move to approve the request for our closed meeting.

Ms. Short: May I get a second?

Ms. Nakanishi: I se-, Member 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 in unison

Ms. Short: Any opposition, please say nay. Hearing and seeing none, the motion passes. We'll give everyone a moment to do the housekeeping stuff to move into a closed hearing.

Motion and Vote: Board member Paiva moved to approve the Petitioner's request to have their petition heard in a closed session; Board member Nakanishi seconded; All members voted aye. Motion passed. (10:23 a.m.)

Board enters Closed Session (10:23 a.m.)

Board enters Open Session (11:19 a.m.)

Ms. Short: 11:19, Hawai'i County Board of Ethics is here by reconvening in an open session. If I could get a Board member to just give us a quick recap, or deparati-, Deputy Corporation Counsel, to give us a quick recap of what just happened in our closed hearing.

Ms. Wan: Okay, so, as-, we were on agenda item five, uh, "b," which was, uh, petition 2024-19. The Board held their hearing and, um, concluded the matter providing, uh, an informal advisory opinion,

uh, finding that there was a conflict in that particular petition. Their informal advisory opinion will appear on the next agenda.

Ms. Short: Thank you very much for that, Deputy Corporation Counsel. At this time, we will move on to executive ses-, no-, number six, 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 form, filed pursuant to section 2-91.1(d), of the Hawai'i County Code of-, 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 Hawai'i Revised Statutes sections 92-5(a)(2), 92-5(a)(4), and 92-6(a)(2).

Ms. Short: Can I get a second?

Ms. Nakanishi: Board Member Nakanishi, I second.

Ms. Short: Any discussion to be had? *inaudible* Oh. Hearing and seeing none, all in favor, please say aye.

All members say aye in unison

Ms. Short: All opposed, please say nay. May the record reflect that the motion carries, and we will now enter into executive session at 11:21.

Motion and Vote: Vice Chair Ho moved to enter in to executive session; Board member Nakanishi seconded; All members voted aye; Motion passed. (11:21 a.m.)

Board enters Executive Session (11:21 a.m.)

Board enters Open Session (11:29 a.m.)

Ms. Short: Can I get a motion from a Board member to accept for filing the financial disclosures present in agenda item six "a," with the exception of number one?

Mr. Ho: Chris Ho, I move accept and file the financial disclosures indicated in the agenda item six "a," two through four.

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, all in favor, please say aye.

All members say in unison

Ms. Short: All opposed, please say nay. Hearing and seeing none, the motion so passes. Moving on to agenda-...

Ms. Wan: I'm just going to mention, um, just as a matter of housekeeping/records, by the way this is Deputy Corporation Counsel, as far as agenda item a(1), it will be moved to the next Board's meeting agenda. Thank you.

Ms. Short: Moving on to agenda item number 7, announcements. I would like to mahalo Denise for all of her service during this time on Board of Ethics. She served a full five year term, she was here through Mayor Kim, through Mayor Roth, she even got to be here through Mayor Alameda, we've appreciated her insight in the world of real estate and tax and all those things so much, so, everybody, thank you, thank you, thank you so much Denise.

Ms. Wan: Thank you, Denise.

Ms. Short: And the next monthly meeting for the County of Hawai'i Board of Ethics is scheduled for Tuesday, January 28, 2025, at 10:00 a.m., here at the Hawai'i County Building, County Council Chambers, 25 Aupuni Street, Hilo, Hawai'i 96720. Finally moving on to our agenda item number eight, adjournment. Can I get a motion to adjourn?

Mr. Ho: Chris Ho, move to adjourn.

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. 11:31 a.m., our Hawai'i County Board of Ethics meeting is adjourned. Thank you very much everyone.

Motion and Vote: Vice Chair Ho moved adjourn the Hawai‘i County Board of Ethics meeting; Board member Fukumitsu seconded; All members voted aye; Meeting Adjourned (11:31 a.m.)

Respectfully submitted:

Noah Agustin, Secretary Assistant