

# HAWAI‘I COUNTY BOARD OF ETHICS

## MINUTES – REGULAR SESSION

Thursday, February 13, 2025

10:00 a.m. – 1:09 p.m.

County Council Chambers

Hawai‘i County Building

25 Aupuni Street

Hilo, Hawai‘i 96720

### Members and Staff Present:

Rachel Short, Chair

Lisa Fukumitsu, Vice Member

Christopher Ho, Member

Paul “Scotty” Paiva, Member

Kelly Valenzuela, Member

Sylvia Wan, Deputy Corporation Counsel

Stacie Okuda, Secretary Assistant

Noah Agustin, Secretary Assistant

## 1. CALL TO ORDER (10:03 a.m.)

Ms. Short called the meeting to order at 10:03 a.m. Present in chambers were Rachel Short, Lisa Fukumitsu, Christopher Ho, Paul “Scotty” Paiva, Kelly Valenzuela, and Deputy Corporation Counsel, Sylvia Wan. Also present were Secretary Assistants Stacie Okuda and Noah Agustin.

Ms. Short: Good morning everyone, this is your Chair, Rachel Short, here for the Hawai‘i County Board of Ethics, calling our meeting at February 13, 2025. Please note this meeting is being held both in person here at the Hilo Council Chambers, as well as virtually using our Zoom platform. I’d like to review some protocols for our Zoom participants very quickly. 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. For Zoom participants, please raise your hand and wait for recognition by myself before speaking to ensure we make a clean and clear record. Prior to speaking, please state your name-, this goes for everyone present. Prior to speaking, please state your name so that all parties know who’s speaking. Speak slowly, clearly, and please be close to the microphone, and if at this time everyone would please limit distractions by turning off your mobile phone, and other devices. As a general reminder for all of our Board of Ethics Members, please state your name before speaking throughout our

hearing today. I'd like to now introduce our Hawai'i County Board of Ethics to you, if we can go down the line, state our names and our roles, I will go first. I am your Chair, Rachel Short.

Ms. Fukumitsu: Good morning, Vice Chair Fukumitsu.

Mr. Ho: Chris Ho, Ch-, um, not the Chair. Um, member.

Mr. Paiva: Scotty Paiva, Member.

Ms. Valenzuela: Good Morning, Kelly Valenzuela, Board Member.

Ms. Short: Also, please note for the record we have Depr-, Deputy-, oh, go ahead Sylvia.

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. I am the Board's attorney and will be assisting the Board. I-, also assisting the Board is Noah Agustin and, uh, Stacie Okuda, who's located in the back as Board Staff.

Ms. Short: Thank you very much, thank you everyone for being here today.

## **2. STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS (10:05 a.m.)**

Ms. Short: At this time, we will take statements from the public on agenda items. Public testifiers can testify now, or just prior to the agenda item that they wish to testify on. Deputy Corporation Counsel, Sylvia Wan, will keep time. Everyone gets three minutes. At two and-a-half minutes, DCC Wan will announce such. Do we have any public testifiers at this time?

Ms. Wan: Uh, yes Chair, at this time, we do have one, uh, public testifier, uh, Jason Ueki, who's going to be testifying on Petition 2024-18.

Ms. Short: Okay.

Ms. Wan: And once you state your name for the record, I'll start your time.

Mr. Ueki: Alright, Jason Ueki. I'm, uh, just a concerned consum-, uh, community member, and, uh, I'd just like to make a comment on the events that happened at the last meeting. So, you know-, I, I filed a complaint, um, basically stating that I felt there was unethical treatment, uh, towards me for value that I provided to the

community, and the County, right? I'm not a lawyer, but I think I presented evidence you in the form of e-mails that would point out that without my efforts, the County would never have applied for, let alone win a, like, \$700,000 EDA Build Back Better Grant, right? I also gave you evidence of exactly what happened in terms of the, the mistreatment, which I will not state here because that was in a private session, right? And, so, the point is, is that there's a continued misrepresentation of facts from the County towards me, and they're using that as justification for my-, for the treatment, right? And that was documented-, in fact, I believe that the primary rationale for dismissing the case was based on something they said I did, which was documented, which never happened, right? I made that-, after the ruling was unanimous I-, as I walked out, calmly I might add, I stated the fact that the, the main rationale for your ruling was not factual, right? So, I said I was looking forward to, to the rationale, and I got it, and that, that fact stated that I was on a Board and resigned, which is not true, is now not on your dismissal. So, I just find this all, uh, confusing. I mean, at the end of the day, it's about how we treat each other, right? This is not a court-, a legal forum, this is about ethics and morals. Tr-, treating other-, each other with decency and respect, a-, honestly, this is far from it. I think as a community, we're losing our way. I think we're losing trust in the public sector and in, and in each other in the community, and this is a reflection-, we can see this going all the way up into, to D.C., right? And so, I'm here just to stand up for the people who have the courage, and who don't have the courage, to stand up for what's right, for when they feel they've been wronged-...

Ms. Wan: 30 seconds remaining.

Mr. Ueki: ... and thank you for your time.

Ms. Short: Thank you very much for your testimony, and for being a part of our community. Sylvia, do we have any other public testimony at this time?

Ms. Wan: No, Chair.

Ms. Short: Thank you very much. Um, just to note for the Board, the public testifier we just heard is in regards to Petition 2024-18, which we will address later on.

**3. APPROVAL OF THE REGULAR SESSION MINUTES (10:09 a.m.)**

a. Approval of the regular session minutes of January 28, 2025

Ms. Short: Moving on to the approval of our regular session minutes of January 28, 2025. Is there any public testimony on this agenda item?

Ms. Wan: No, no Chair.

Ms. Short: Wonder. Has everyone had a chance to read the regular session minutes of January 28, 2025? Assuming yes, can I please get a motion to approve the regular session minutes of January 28, 2025?

Mr. Ho: Um, Chris Ho, move to approve the regular session minutes of January 28, 2025, with amendments that I will give during discussion.

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

Ms. Valenzuela: Board Member Kelly Valenzuela, I second it.

Ms. Short: Any discussion to be had? It sounds like Chris has some.

Mr. Ho: I do, thank you-...

Ms. Short: Wonderful.

Mr. Ho: ... Madame Chair.

Ms. Short: Thank you.

Mr. Ho: Um, so, there really is just, um, one mi-, uh, amendment that needs to be made, um, the word that is used is not necessarily the correct word, and if we replace it with the correct word, it would actually change the intent of the entire sentence. Um, since we don't have page numbers, um-, page one, two, three, four, five-...

Ms. Short: Maybe you could tell us what bullet point it's under, Chris. The section and sub-section.

Mr. Ho: Um, letter e, Petition 2025-03.

Ms. Short: Say that one more time?

Mr. Ho: Um, letter e, Petition 2025-03.

Mr. Short: Okay, so, for everyone that is, um-, number 5, new business, subsection e, Petition 2025-03. What is-...

Mr. Ho: It's the second page.

Ms. Short: So, the back of that, okay.

Mr. Ho: Um-, one, two, three, four, um, five, five spaces down, right, um-, Ms. Iyo-...

Ms. Short: Oh yeah, thank you for seeking me today.

Mr. Ho: Uh, yes.

Ms. Short: Okay.

Mr. Ho: So, um, I'm going to stop talking so that I can do the amendment properly. Okay, um, move to amend that sent-, that particular sentence, so, um, first of all, my name is Lindsey Iyo, thank you for seeking me today, removing seeking and replacing it with seeing.

Ms. Short: So, Chris, do-, he already said the motion with the amendment.

Ms. Wan: No, so his motion was he wants to approve the minutes with amendments-...

Ms. Short: Okay.

Ms. Wan: ... so, right now, he's doing a motion to amend this line by deleting seeking and replacing with the word seeing, so that is a motion to amend. We'll need a second.

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

Ms. Fukumitsu: Board Member Fukumitsu, second.

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

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

Ms. Short: Any oppo-, opposition, please say nay. Hearing and seeing none, the motion to amend now passes.

**Motion and Vote: Board Member Chris Ho moved to amend the Regular Session minutes of January 28, 2025; Vice Chair Fukumitsu seconded; All members voted aye. Motion Passes. (10:12 a.m.)**

Ms. Short: We will now go back to the vote for the approval of the minutes-...

Ms. Wan: You'll go back to, you'll go back to discussion-...

Ms. Short: Okay-...

Ms. Wan: ... for the motion as amended.

Ms. Short: ... any further discussion to be had on the motion to approve the regular session minutes from January 28, 2025?

Mr. Ho: The rest are just minor, um, they're just missing letters in some of the words. Just an FYI.

Ms. Wan: Okay. Um, would you like to state them? Or, or would you like to-, I'm not exactly sure how you want to do that.

Mr. Ho: I don't either because there's a handful, and I don't want to take too much time trying to-...

Ms. Short: Should we take-...

Mr. Ho: ... identify and go through each one-...

Ms. Wan: So, are, are you okay with the minutes standing even with those typographical errors?

Mr. Ho: Yes, that was the only real one that needed to be changed.

Ms. Wan: Okay.

Mr. Ho: The rest are superficial.

Ms. Wan: Okay, so that's before the Board.

Ms. Short: Any further discussion on the approval of the regular session minutes from January 28, 2025? I will call for a vote in this-, at this time. All in favor of the approval of those minutes, please say aye.

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

Ms. Wan: With the amendment.

Ms. Short: With the amendment.

Ms. Wan: Yeah.

Ms. Short: With-, all in favor of those-, the approval of those minutes with the amendment, 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: Board Member Chris Ho moved to approve the amended Regular Session minutes of January 28, 2025; Kelly Valenzuela seconded; All members voted aye. Motion Passes. (10:13 a.m.)**

b. Approval of the closed session minutes of December 11, 2024

Ms. Short: Moving on to the approval of our closed session minutes from January 28, 2025. Do we have any public testimony on this agenda item, Sylvia?

Ms. Wan: Not at this time, Chair.

Ms. Short: Has everyone had a chance to read and review the regular-, the executive session minutes from January 28, 2025?

Ms. Valenzuela: Yes.

Ms. Short: May I get a motion to approve those minutes?

Mr. Ho: Sorry, Madame Chair, you meant closed session, correct?

Ms. Short: Closed session, yes.

Mr. Ho: Thank you.

Ms. Short: Thank you. Would someone like to make a motion to approve the closed session minutes from January 28, 2025?

Ms. Valenzuela: Good morning, Kelly Valenzuela, Board Member. I make a motion to approve the closed minutes of January 28, 2025.

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

Ms. Fukumitsu: Vice Chair 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, the motion so passes.

**Motion and Vote: Board Member Valenzuela moved to approve the Closed Session minutes of January 28, 2025; Vice Chair Fukumitsu seconded; All members voted aye. Motion Passes. (10:14 a.m.)**

c. Approval of the executive session minutes of January 28, 2025

Ms. Short: Moving on to the approval of our executive session minutes from January 28, 2025. Do we have any public testimony on this agenda item at this time?

Ms. Wan: No, Chair.

Ms. Short: Assuming that everyone has had a chance to read our executive session minutes, can I get a motion to approve those executive session minutes?

Ms. Fukumitsu: Vice Chair Fukumitsu, I move to approve the executive session minutes of January 28, 2025.

Ms. Short: Thank you, Vice Chair, may I get a second?

Ms. Valenzuela: Kelly Valenzuela, Board Member, I 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 state nay. Hearing and seeing none, the motion so passes.

**Motion and Vote: Vice Chair Fukumitsu moved to approve the Executive Session minutes of January 28, 2025; Board Member Valenzuela seconded; All members voted aye. Motion Passes. (10:15 a.m.)**

**4. UNFINISHED BUSINESS (10:15 a.m.)**

a. Petition 2024-18: Review of Order Dismissing Petition

Ms. Short: Moving on to agenda item 4, unfinished business. Calling Petition number 2024-18, the review of the draft order dismissing the Petition. I believe we heard the only public testimony on this item?

Ms. Wan: I, yes, Chair, De-, Deputy Corporation Counsel, Sylvia Wan. Uh, the only public testifier was related to this item. I will also just note, um, for the Board's, uh, attention, uh, that same individual also provided written testimony. A copy of that written testimony has been provided to the Board this morning, so if you'd like to take a moment, at this time, uh, please review that written testimony before we move on to the consideration of the proposed order.

Ms. Short: I'll give everyone a few minutes to review our written testimony, thank you.

*\*All members read the written testimony\**

Ms. Short: Has everyone had time to review the written testimony? Thank you. Um, after hearing and reviewing the testimony, would someone like to make a motion regarding Petition 2024-18?

Ms. Wan: Well, um, the testimony is not on the agenda. What is on the agenda is, um, approval of the draft order dismissing the petition-...

Ms. Short: Okay.

Ms. Wan: ... so, that's what should be called.

Ms. Short: So, would someone like to make a motion approving the draft order to dismiss Petition number 2024-18?

Mr. Ho: Chris Ho, Member. Before I do that, I just wanted to say for the record, um, since this is voting on, um, this particular-, even though, the decision has already been made, I just wanted to state for the record that, um, one of the respondents and I have worked together for many, many years, outside of their role within the County, um, and that will not affect my ability to, um, appropriately do what I need to do for this.

Ms. Short: Thank you. Would someone like to make a motion?

Mr. Ho: Chris Ho, Member. Move to approve Petition 2024-18, um, review of draft order dismissing Petition 2024-18.

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

Ms. Valenzuela: Kelly Valenzuela, I second it.

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. The motion so passes. Petition number 2024-18, I will sign at this time.

**Motion and Vote: Board Member Ho moved to approve the draft Order Dismissing Petition for Petition 2024-18; Board member Valenzuela seconded; All members voted aye. Motion Passes. (10:19 a.m.)**

b. Petition 2024-18: Review of draft Informal Advisory Opinion

Ms. Short: Moving along to unfinished business, agenda item 4(b), calling Petition number 2024-21, the review of the draft of an informal

advisory opinion. Do we have any public testimony on this agenda item?

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

Ms. Short: Has everyone read the draft informal advisory opinion? Can I get a motion to approve the informal advisory opinion regarding Petition 2024-21?

Ms. Fukumitsu: Vice Chair Fukumitsu, I move to approve the informal advisory opinion for Petition number 2024-21.

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

Ms. Valenzuela; Board Member Valenzuela, I second it.

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 at this time. Uh...

Ms. Wan: Just strike it.

**Motion and Vote: Vice Chair Fukumitsu moved to approve the draft Informal Advisory Opinion for Petition 2024-21; Board member Valenzuela seconded; All members voted aye. Motion Passes. (10:20 a.m.)**

c. Petition 2024-22: Review of draft Informal Advisory Opinion

Ms. Short: Um, moving on, wait-, yup. Calling Petition number 2024-22, the review of the draft informal advisory opinion. Do we have any public testimony on this agenda item?

Ms. Wan: Nope.

Ms. Short: Has everyone had a chance to review the informal advisory opinion for 2024-22? May I get a motion to approve pe-, the informal advisory opinion for petition 2024-22?

Ms. Fukumitsu: Vice Chair Fukumitsu, I move to approve the informal advisory opinion for Petition number 2024-22.

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

Ms. Valenzuela: Board Member Valenzuela, I second it.

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 at this time. Look at that one, 2023. I know.

**Motion and Vote: Vice Chair Fukumitsu moved to approve the draft Informal Advisory Opinion for Petition 2024-22; Board member Valenzuela seconded; All members voted aye. Motion Passes. (10:22 a.m.)**

d. Petition 2025-03: Review of draft Informal Advisory Opinion

Ms. Short: Calling Petition number 2025-23, the review of a draft informal advisory opinion. Do we have any public testimony on this agenda item?

Ms. Wan: No, Chair.

Ms. Short: Has everyone read this?

Ms. Fukumitsu: Yes.

Mr. Ho: Madame Chair, just so we're clear, you're referencing Petition 2025-03, not 23?

Ms. Short: Yes, 03. Did I say 23? Sorry, 2025-03. Has everyone had a chance to read that informal advisory opinion? Can I get a motion to approve that?

Ms. Fukumitsu: Vice Chair Fukumitsu, I move to approve the informal advisory opinion for Petition number 2025-03.

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

Ms. Valenzuela: Board Member Valenzuela, I second it.

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. Oh, this one's right.

**Motion and Vote: Vice Chair Fukumitsu moved to approve the draft Informal Advisory Opinion for Petition 2025-03; Board member Valenzuela seconded; All members voted aye. Motion Passes. (10:23 a.m.)**

e. Review and comment for Bill 21

Ms. Short: Moving on to the continued review and comment of Bill 21. Just as a reminder, at our last meeting, um, our Board did request the presence of Council Member Heather Kimball who introduced Bill 21, seeking input regarding the intent, creation, and status of Bill 21 presently before our County Council. Um, at this time, if the Board is ready to proceed, I'd like to invite Council Member Kimball up to approach. Thank you for being here with us this morning. Good morning. If you could-...

Ms. Kimball: Good morning, Aloha-...

Ms. Short: Aloha.

Ms. Kimball: ... Chair Short, and Members of the Board of Ethics. Um, thank you in advance for your consideration of this measure. Um, I understand there were some questions at the last hearing, and my apologies, it was scheduled so quickly, I wasn't able to be here to answer some of those questions. Um, before I start though, there is a little bit of history around this, and I wanted to invite our auditor, um, Mr. Tyler Benner, to come up and share a little bit of this history. I know that one of the questions, um, was perhaps that this was in response to the current administration. I want to make clear that this piece of legislation actually has been in the works for quite some time, and it was just timing that the introduction happened after the election and whatnot. So, let me have, um,

auditor Benner share some of the purpose, and in, in reason that this, um, measure was introduced. Tyler.

Mr. Benner:

Aloha. Um, my name is Tyler Benner with the Office of the County Auditor. Uh, so speaking-, speaking briefly on Bill 21, I was asked to provide some background information. Hawai'i is a special place, uh, in part defined by deeprooted multi-generational families and a strong sense of community. It's natural to want our families and friends to thrive. That said, we all also must ensure that opportunities in County government are free from actual or perceived bias and influence. The County has struggled with this perception. Hawai'i Revised Statute section 76-1 establishes the merit principle. The merit principle is the, the selection of persons based on their fitness and ability for public employment, and the retention of employees based on their demonstrated appropriate conduct and productive performance. 76-1, sub-section 2, requires the impartial selection of individuals for public service by means of competitive tests, which are fair, objective and practical. Here's a quick timeline of events. In 2013, the Office of the Mayor and DHR created a Staffing Review Committee, SRC, consisting of three members. Appointing authority or department head, the director of Human Resources, and a representative of the Mayor's Office. Departments were instructed not to make employment or appointment offers without first receiving SRC confirmation. This impromptu committee was seen as potentially degrading competitive recruitment by declining to advance certain people through the SRC, and promoting others, which became known as persons of interest. The new administration disbanded the SRC in January of 2017. As a result of complaints of the public and concerns of fear of retaliation by staff, the Office of the County Auditor conducted an audit of hiring practice, practices in 2017. Among the recommendations made was one two-part recommendation that spoke to prohibited personnel hiring practices. That recommendation states, we recommend that the Department of Human Resources develop and implement policies and procedures that address monitoring and oversight of County wide interviewing and selection processes to deter, detect and prevent questionable hiring practices, and ensure compliance with the applicable laws and regulations. Further, we recommend that the Department of Human Resources require individual hiring departments to use the NEOGOV system to track and monitoring the status of candidates during the interview and selection process. In January 2022, the Office of the County auditor piloted a Fraud,

Waste, and Abuse Hotline. The line began receiving calls. Some of those complaints alleged different types of bias in hiring practices. Respond-, uh, responding to most of these complaints is primarily a function of the Merit Board of Appeals. In February 2022, the Office of the County Auditor published a follow-up audit of hiring practices in DHR. We found that, based on the recommendation, DHR did everything asked of them at the time. Still, based on the ongoing concerns and calls, we identified opportunities to further strengthen monitoring and oversight practices. These partially included establishing monitoring and oversight procedures, defining nepotism, defining hanai-, hanai relationships, establishing a policy to address nepotism in conflicts of interest, and disclosure of any known or potential conflicts of interest on the interview panel acknowledgment form. In 2022, we contacted Corporation Counsel to determine the feasibility of adding the language to the ethics section of the Code, but were informed at the time that the County would prefer to align with State language in which there was none. Meanwhile, our Waste, Fraud, and Abuse Hotline was operationalized, and investigations of waste, fraud, and abuse became a permanent function of the Office, after a 2022 Charter Amendment was passed by an overwhelming majority of the community in that year's election cycle. Our Office continued to field sporadic calls of alleged bias and hiring practices. The Office investigated a call and published a report, on or about May 23, 2024. In that case, a supervisor and close relative of a candidate did not declare their relationship. Competitive recruitment typically seeks to have three qualified candidates interviewed. In the case of our investigation, the supervisor-, again, the relative of one of the candidates, chose to administer a field test before interviewing. There is no written procedure that defines the order of operations between interviewing and field test. Only two of the thirteen individuals had completed test scores, and the others were only partially completed. Only the relative had an exceptional score. Therefore, only the relative advanced to the interview. Ideally, the supervisor should've had to declare their familial relationship as soon as they learned a family member in the candidate pool was in the candidate pool, and should not have inf-, been involved in the hiring process. If scores-, if, if scores of a family are artificially inflated, the department can use this method to bypass competitive recruitment, artificially limiting the pool, and guaranteeing the hiring of only the remaining candidate. One primary concern was the gaps in Code, which we would expect to require mandatory disclosal-, disclosure, recusal, as well as

missing internal controls. However, as a result of this investigation, we've learned that the State had enacted House Bill 717 related to nepotism. We again spoke with DHR to request the Hawai'i County Code be tightened to specify nepotism and others to align with the state. In response to our investigation, the Roth administration published a memorandum on May 30, 2024, which states, as you may be aware, the public perception of the ability to secure a County job has been one of it's not what you know, it's who you know. Allegations of unfair hiring practices detract from the work our dedicated employees perform unjustifiably calling into question the merit and ability to perform the work which they do so well every day. All County officers and employees are required to adhere to the Code of Ethics, even the appearance of impropriety should be avoided. Nepotism, however, is not specifically addressed in the code. I have no doubt our employees operate with integrity to avoid conduct that may be improper. Establishing bright-line rules when it comes to official work actions involving relatives or household members will support employees in meeting that end. In the coming months, my administration intends to work with County Council on introducing amendments to our County's Code of Ethics. These amendments will be modeled after the State Legislature House Bill number 717 related to nepotism, which became law on July 11, 2023. A copy of House Bill 717 is enclosed for your reference. As a reminder, the Code of Ethics currently re-, uh, includes requirements regarding conflicts of interest, and fair and impartial treatment of all persons. This includes certain requirements, not related to County contracts, that confidential information acquired in the course of one's work not be used for personal gain, or for the benefit of anyone in that-, and that one's position shall not be used to secure special treatment for anyone beyond that which is available to every other person. When filling vacant positions or contracting services, please be mindful of these requirements. Should any potential conflicts of interest, or even the appearance of preferential treatment arise, reach out to the Department of Human Resources, or the operation-, uh, Corporation Counsel for, for guidance. To date, the only reference in nepotism-, the nepotism in code that I'm aware of is the grant-, is in the grants to non-profit organizations, chapter 2, section 137-2, which requires that they maintain written, prohibited-, uh, riveted-, excuse me, written policies on prohibiting nepotism and managing potential conflicts of interest. I'm sure the irony that we impose this on outside entities while not having a similar internal policy

isn't lost on anyone. Hawai'i County should have the strongest safeguards of any County in the state to ensure the most qualified and talented individuals serve our community based on merit. Our recommendation is not about excluding individuals or limiting opportunities-, quite the opposite. It's about protecting both staff and candidates by upholding the reputation. This is matter of-, a matter of both compliance and trust. We must avoid hiring practices that create doubt, distract from the work being done, or limit opportunities for diverse placements where individuals can contribute free from the perceptions of conflict. By clearly defining these safeguards in both code and policy, we protect the integrity of the government and maintain the confidence of the people that we serve. That concludes my narrative, I hope this provides enough information for this body to deliberate and make an informed decision. Thank you.

Ms. Short: Thank you very, very much for being here with us today, and for that very relevant important background. I just want to highlight for the Board the State law that he is referencing that, um-, so you can compare and contrast the verbiage with the County law. County Bill that's before us. Thank you very much.

Ms. Wan: So, Deputy Corporation Counsel, Sylvia Wan. So, this Board had tasked myself, as the Board's attorney, with a couple of, um, requests. Uh, one of them was, um, looking into the State laws, as well as, uh, the other County's, as to their definitions for immediate family member. Whenever the Board is ready to hear that information, I can provide that to the Board. Also, in addition, because when I did reach out at the Board's behest to, uh, invite Ms. Kimball to be present, I was made aware that the, the current Bill 21 was patterned after the State law, and so I did provide, as a part of the Board's packet, um, as a late submission, so you have in front of you today, um, the-, it's HRS 48-13.2, which is nepotism prohibition. This is a part of the standards of conduct for the State and is a part of the State Code of Ethics. So, that's just for your reference, and I'm sure you have questions for your speakers today.

Ms. Short: I'll open it up for the Board to ask questions of them at this time. Kelly, please.

Ms. Valenzuela: Like, in a discussion forum, can I-, could I, okay. Thank you so much, Council Kimball, for being here and also for you. Um, when

I first saw this, I got a little concerned, um, and I'll just share a little bit why. So, in Hawai'i, um-, the 2023 Census. We had a population of 1.435 million. The State and the County are the largest employers in the State of Hawai'i. The largest companies, right? On the Big Island, we have a population of 198,449. We have 3,100 people working for the County, right? The State employment numbers are 736,023, out of the million .435. 736,000. My concern is Hawai'i is different. We are not like the mainland. We have a lot of people that are related. What concerns me is the definition of immediate family. Immediate family, to me, is a mother, father, brother, sister, children. It does not include hanai, step. In Hawai'i, many of us are related. I do feel that the State, in my opinion-, they didn't really think this out, knowing these numbers right here. This is a lot of people employed by government. So, we all talk about affordable housing and keeping our children here, keeping our families here. Where are the local people supposed to work? If I'm applying for a job, and I'm the best qualified for a position, and my cousin is in that same department, I don't think I should be discriminated against to apply, to go through all those steps, necessary steps, I'm not saying, you know-, um-...

Ms. Short: Kelly, is there a question for them?

Ms. Valenzuela: ... to bypass-, so, my question is, was it thought out, number one, and number two, who changed the definition, or where was the definition of immediate family changed?

Ms. Kimball: Um, so, so, yes, it was thought out, and I don't know if we have the Director of, um, Human Resources here, oh-...

Ms. Wan: We do.

Ms. Kimball: ... fantastic...

Ms. Short: I believe-, oh, perf-...

Ms. Kimball: ... um, so-...

Ms. Valenzuela: Thank you.

Ms. Kimball: ... I, I want to just clarify and, and I think perhaps Sommer is the best person to do this, um-, is how this will actually impact the

process. This is not going to be a prohibition of having people that are related to other people in the County working for the County. It's also not going to mean that anybody that's currently working for the County is going to be let go. It really primarily...

Ms. Valenzuela: Thank you.

Ms. Kimball: ... has to do with the supervisory component and the hiring component, and making sure that we have some, um-, that we're following the recommendations of the State, per the HRS, with respect to that, and I'll, I'll let the Director speak to that, but, um-, well, let me have the Director speak to that component of it-...

Ms. Valenzuela: Thank you.

Ms. Kimball: ... and then I'll answer your question about the definition.

Ms. Valenzuela: Okay.

Ms. Tokihiro: So, yes, um-, sorry, Sommer Tokihiro, Director of Human Resources. Um, so, to confirm, it doesn't prohibit people who are related from working for the County. It doesn't prohibit people who are related from working in the same department. It is, again as, um, Council Member Kimball mentioned, it's about, um, that supervisory aspect, um, and then also being part of, um, an interview and selection process for, um, an immediate family member.

Ms. Valenzuela: So, if, if you don't mind, elaborate-, how-, with the supervisory-, what-, explain that to me that, that protocol. Are, are you saying that a supervisor wouldn't be able to interview a relative? Is that what that-, this means?

Ms. Tokihiro: Um, possibly yes. We're going to be asking-, we would-, the intent would be to find out, um-, ask them to declare if there's a family relationship. Um, and even, you know, in instances where someone may currently be supervised by a family member, we would have to look at ways that we could change that supervision, and then if that wasn't possible, then the matter would come back to the Board, um, for an opinion, as far as, you know, whether or not it was appropriate. So, there's options, you know, it's not just that, you know, its-, everything is prohibited. We have to look at the situation, look at the changes that can be made. If we cannot make

the change and we require some kind of guidance, then it would come back to you folks for a decision.

Ms. Valenzuela: Okay, so, so, just so I'm clear in summary, so, it would mean if I am a supervisor of a certain department and one of my relatives applies for a certain position and I-, I'm related to them, and either they admit to that or I do or, or whatever-, to me, I'm thinking in the application process, maybe you'd have to sign say, you know, I'm related to whoever, um-, at that time, that supervisor would either recuse themselves like how we, we would do, right, in our boards and council and everything, and somebody else would step in, or, um, would that person not be able to interview?

Ms. Tokihiro: No. The-, our intent would be that the identified family member would recuse themselves from the interview panel and then, you know, the panel could consist of other people that could, you know, um, participate in the interview.

Ms. Valenzuela: Okay.

Ms. Tokihiro: So, it's not that we, you know-, definitely not intended to be restrictive as far as who can work for the County, or where they work. It's just ensuring that, um, supervision and selection is, is not being done by a family member.

Ms. Valenzuela: Okay. And then my other question would be, um, on the application process, is there a box and/or something where a person would check off, you know, I, you know-, do you have relatives working within in the County of Hawai'i? I mean, I don't even know if they can legally ask that question, but-...

Ms. Tokihiro: So, currently we don't, and so what we're, um, going to need to do is wait and see what the final language is, as far as what the final language changes, and then implement the policies in HR to, you know, have people, um, you know, declare a family relationships at the time of interview. I'm not sure that we need to do that at the time of application, um, but certainly in that interview process, there would be some self-declarations that we would have to incorporate into our existing, um, procedures.

Ms. Valenzuela: Okay. And that can be-, can that be legally asked?

Ms. Wan: Yes.

Ms. Short: Yeah.

Ms. Valenzuela: Okay. Thank you, guys-...

Ms. Short: Vice Chair, please.

Ms. Valenzuela: ... thank you for explaining.

Ms. Fukumitsu: Yes, so-...

Ms. Short: Thank you, Kelly. Vice Chair.

Ms. Fukumitsu: ... just for clarity, um, Vice Chair Fukumitsu. It doesn't stop someone from applying for a position-, so we would still be able to have the best qualified candidates apply regardless of who sits in the supervisory seat, and that would be an understanding among departments, right? Because the perception of this is that I can't apply. That was-, that would be my concern. Like, I can't apply because you're my hanai mom or something-...

Ms. Tokihiro: Right.

Ms. Fukumitsu: ... right, okay.

Ms. Tokihiro: So, yeah. And we would need to-, once this passes, should it pass, then it'll be, um, something that we're going to need to provide education and training to our departments about what does this really mean, how are we applying this, um, so that people have that understanding because, you know, that's not our intention, we don't want to, you know, have people have that perception, so, we'll provide, um, training and guidance so that people fully understand what this means and how it impacts them.

Ms. Valenzuela: Okay, I actually have one more question, uh, Board Member Valenzuela. How does that apply to appointments? When the Mayor can appoint someone directly to a position, how, how would this right here apply, and how would that be handled?

Ms. Tokihiro: It doesn't apply.

Ms. Valenzuela: Okay.

Ms. Short: So, the Mayor could still appoint someone within this definition of immediate family?

Ms. Tokihiro: Yes.

Ms. Short: Okay. Thank you for that clarification. Vice Chair, I saw that you had a few more questions it looked like.

Ms. Kimball: Chair, may I, um, actually just respond to the other-...

Ms. Short: Please.

Ms. Kimball: ... question which is where the definition came from-...

Ms. Short: Please.

Ms. Kimball: ... so, because-, I, I wanted to highlight that because that is actually the main reason that the Council forwarded this Bill to you guys, because our definition is a little bit different than what is in the State HRS. Um, specifically, we say immediate family member. In the HR, it's relative, but the reason for that change is because we refer to immediate family member in other sections of the code. And so, in order to be in alignment, we needed to use that term. But, in, in the HRS, op-, and my thing just closed, um-, so we're looking at the definition under, um, 84-13-2, sorry, no-, right section, yes, uh 13-2-...

Ms. Short: 4-13.2.

Ms. Kimball: ... uh, .2, .2. Um, so, in, in there it, it's the equivalent, but it's relative. Their definition say-, goes-, means the employees parent, grandparent, step-parent, child, grand-child, step-child, foster child, adopted child, sibling, half-sibling, step-sibling, parent-sibling, first cousins, sibling's child, spouse, spouse's parent, child-in-law, or sibling-in-law, or any individual that has become a member of the employee's immediate family through the Hawaiian hanai custom. Ours is, um-, so, just to be real succinct about it, um, if you take it on face value, the, the language in the HRS goes out to first cousin. Um, based on some conversations with another Council Member, there was an interest in Hawai'i County to extend that to include second cousins. And so, although it's structured differently-, and there is an error in it that I will acknowledge that we-, so, there is definitely an amendment. If I

were to just express generally the intention of the Council, um, it is to say, that definition in the HRS, plus second cousins. So, what we're looking for from you guys is feedback on, um, both the language that we have in the Bill around immediate family. Whether or not it makes sense to just use the HRS language, what the feeling is on first cousin versus second cousin being that kind of outer ring of what would fall under the nepotism language.

Ms. Short: Can I just clarify something real quick, and thank you very much. Section 4, section 2. It does say appoint, as sec-, section 2(a)(1). So, no employee or officer shall appoint, hire, promote, or retain an immediate family member to, or demote, discharge or terminate an immediate family member from a paid position.

Ms. Wan: That's under your Bill.

Ms. Short: Under your-, under-, on Bill number 21.

Ms. Kimball: I'm sorry, which section?

Ms. Short: And I also see that on HRS, so, I think I just want to clarify that. So, the May-, so, tha-, peop-, the Mayor, or anyone else in a position where they can appoint something would not be able to appoint an immediate family member under this definition.

Ms. Kimball: I believe that is correct, yes.

Ms. Short: Okay, I just wanted to get that clarification.

Ms. Kimball: Am I-, did you have a comment on that, Tyler? No, okay. I believe that is correct.

Ms. Short: Okay.

Ms. Kimball: Yeah, I think that was-....

Ms. Valenzuela: So, Board Member Valenzuela. Um, so, your question about, um, should you take your definition, or should you adopt the State-, I'm, I'm thinking, and I, mi-...

Ms. Wan: Um, I'm, I'm sorry, Kelly-...

Ms. Short: We're not on discussion yet.

Ms. Valenzuela: Oh.

Ms. Short: We're just going to ask them questions, and then we'll discuss as a Board.

Ms. Valenzuela: Sorry.

Ms. Short: Just for time sake.

Ms. Wan: Um, and, also-...

Ms. Short: Member Ho, I believe, has some questions.

Ms. Wan: ... because we're talking about definitions, would this be a prudent time-, sorry, Deputy Corporation Counsel, Sylvia Wan. Would this be a prudent time for me to provide to the Board-...

Ms. Short: Yes, please.

Ms. Wan: ... my writ-, my legal research-...

Ms. Short: Yes, please.

Ms. Wan: ... as far as the definition for immediate family member?

Ms. Short: Yes, please.

Ms. Wan: Okay. So, at this time, I will note, um, there's a couple of things that are being considered, right? First off, under the State Statute, um, Council Member Kimball has accurately reflected that the term that they're using is relative, right? So, their term-, this definition they're providing is relative, which includes within it, uh, a reference to an immediate family member through hanai custom, right? So, it's a, it's a little more encompassing under the State definition than just what's considered immediate family member under State definitions. So, when-, I did do, um, a rather extensive review as far as our Hawai'i Revised Statutes as to how does immediate family member-, how is it defined repeatedly throughout the State Statutes, and I did see some very common themes. Um, for the most part, immediate family member means spouse, child, sibling, parent, grandparent, grandchild, step-parent, step-child, step-sibling, and equivalent adoptive relationships. So,

that is straight from HRS 454F-1, which is relating to secure and fair enforcement of mortgage licensing act. Um, another definition, which expands it just a little bit more, has the same, uh, relations, but expands it to saying any related individual who resides in the same household. So, again, kind of keeping it more to what is typically considered the nuclear family, um, with the step relations. And another definition which expands it, um-, this has to do with, uh, disposition relating to convicted defendants. This one talks about surviving immediate family members, and what's considered to be a surviving immediate family member would include not just that nuclear family, um, with, with spouses, but also recognizes the reciprocal beneficiary relationship, which is unique to Hawai'i, um, as well as legal guardians. So, legal guardians of children, legal guardians of the deceased victim. So, right now, consistently within the State Statues, they're keeping it pretty close to who are the members of the family that would appear living in a household of a person. Um, and the counties, the other counties, Maui and Kaua'i, have the ex-, um, don't specifically define immediate family member within their Code of Ethics, um, but the term immediate family member does appear in their, in their version of the Code of Ethics which lives in their Charter. As far as Honolulu, uh, the City and County of Honolulu, City and County of Honolulu defines immediate family member as, um-, and this is related to their standards of conduct i.e. their Code of Ethics, means employees' or officers' spouse, sibling, children, or parents, spouses' children or parents, and children's spouses. So, this one extends just a little bit beyond because they're also thinking of like, adult children and the adult children's, uh, spouse. So, that's just kind of for this particular Board to ruminate on. I do understand that, um, the definition that's currently being proposed by 21 extends beyond what would be typically thought of as the household family, the family that would appear within a household, and extends beyond that, um, just on its face. So, the Board may want to consider different iterations if you like this relationship going that far out. Maybe you would want to call it something different, um, just to avoid confusion since the State is pretty clear as to what the State considers an immediate family member. Options abound for the Board.

Ms. Short: Thank you very much, Sylvia. Member Ho...

Ms. Kimball: Chair, if I make-, make an additional...

Ms. Short: Yes, yes please.

Ms. Kimball: ... comment, yeah, and, and just to, to make it clear to you guys, um-, we're certainly open to accepting any pres-, you know, wording that you think is appropriate on this in terms of your communication as far as our deliberations at Council. I will further say, and I don't know if you reviewed this at all, um, Deputy Director Wan, there is no definition within the HRS of hanai, nor is there one in our Code. It's one of those things like you know it when you see it, um, and just to make clear, as was mentioned before, you folks would be the adjudicator on anything like that. So, if there was ever a complaint, oh this is a hanai relationship, you guys would be the ones to make the determination about whether or not it qualified as a hanai relationship.

Ms. Short: Thank you for that clarification, Council Member. Member Ho.

Mr. Ho: Um, Chris Ho. Um, thank you both for being-, actually all three, um, for being here. I have some follow-up questions. Um, okay, so, let's start with, um, section 3, so, immediate family, since kind of that's where we're at with this conversation. Um, if this were to be approved, um, would, with the language provided, would this also alter and change immediate family in any all other, um, Code that already exists?

Ms. Kimball: Yes, um, if you-, in the later portions of the Bill, um, there are some clerical amendments to other places where that terminology is used. So, um, other than what's included in Bill 21, there are no other implications in terms of the definition.

Mr. Ho: Okay. Um, and then, let's see. We, since, um, the Director of Human Resources is here, um, when you talk about, um, the individual going through the application process and then, um, going to the interview, what is the difference between the supervisor who sits on the interview panel and the supervisor who actually supervises? So, sometimes it might not be the same person. It might be the director that's do-, sitting in, um, on the interview-...

Ms. Tokihiro: Correct.

Mr. Ho: ... but then that partic-, that particular person now, um, is being supervised by someone else, so what level of supervision would this actually apply to?

Ms. Tokihiro: Um, direct supervision, but we would have to evaluate that and see how that corresponds, right? If the appointing authority, um-, so it would be direct supervision, but there may be other relationships that we would have to look, because ultimately-, like in an interview process, a member of an interview panel is directly involved in that selection process of a candidate, right? Um, but, day to day supervision, we'd be looking at direct supervisor, but then the appointing authority is the department head. So, we would have to look at this from a variety of different, uh, levels, to evaluate, you know, if a conflict exists.

Mr. Ho: Okay. Uh, one thing that may pop up-, it, I, so for a living, I look at worst case scenarios for everything. Um, this is no exception. Um, so, someone gets hired and they, the person who was the supervisor, recused themselves from it, but they are still, um, at the, the top of the supervisory chain. Um, person does get hired, um, who's the most qualified for the position-, go into the position, um, their, uh, review comes up, um, and they're immediate supervisor provides that review, does that review get signed off by someone, like the actual-, the big supervisor is just signing off approval, um, that the, um, review was done, and how would that work if they're related?

Ms. Tokihiro: Yeah, so, our performance reviews, our performance appraisal reports as we call them, PARs, are completed by an immediate supervisor, but then also signed off on by a division head, and a department head. Um, so, yes, I mean, it, it could be, um, that again, we would have to evaluate that.

Mr. Ho: Awesome, thank you. Okay, moving on. The next page. Um, in section 4, section 2, letter e, um, upon application, the Board may grant-, could you tell me who the Board is?

Ms. Short: That's a-, that's us, Member Ho-...

Ms. Tokihiro: That's you.

Ms. Kimball: That would be you guys, yes.

Ms. Short: ... the Board of Ethics. We would be able to grant the-...

Mr. Ho: ... okay, I was just curious because it only said the Board and I was a little confused.

Ms. Short: Yeah.

Mr. Ho: Okay. Uh-...

Ms. Short: Just to be clear, this is all amendment to the Code of Ethics, correct?

Ms. Wan: Right now, as Bill 21 is presently written, it would be making amendments to the Code of Ethics, as well as, nope, looks like the Code of Ethics.

Ms. Short: So, we would be the Board then-...

Mr. Ho: Okay.

Ms. Short: ... as this would all become part of our Code to uphold.

Mr. Ho: Awesome. Thank you for that clarification. Um, and then going back up to the top where it's number 1, when we talked about the appoint component. Um, in here, it references, um, for a paid position. Um, I don't know if any of you up here are getting paid, because I would like to. Um, would this apply to those who are appointed to non-paid commission or board positions?

Ms. Kimball: I'm going to tell you-, I-, this Bill no, but I think that that is covered elsewhere, so, um, I, I do think that that is, um, included already in the, at the-...

Mr. Ho: With the extended second cousin level?

Ms. Kimball: No, no. That, that's just applying to this nepotism section around-...

Mr. Ho: Okay.

Ms. Kimball: ... paid employees.

Mr. Ho: Um, I think that's all the questions I have. Thank you.

Ms. Short: Do any other Board Members have any questions at this time? Are we free to state our input or what is our next move, Corporation Counsel?

Ms. Wan: Okay, so, um, Deputy Corporation Counsel, Sylvia Wan. Just to provide a little guidance to the Board because this type of consideration is an anomaly. This peti-, you know, this Board generally deals with petitions, but you-, it is under your authority also to provide this kind of, um, comment and, and opinion/guidance to Council. So, I would behoove you to kind of consider this similar to an informal advisory opinion, whereas the content that's you-, that's being requested for your informal advice is Bill 21. Um, obviously you're not going to say whether or not something is a violation of Code of Ethics or not, but more on what is the opinion of the Board as a whole, as to the operations of this particular Bill. Do you think it's good? Do you think it's bad? Do you think there could be some improvements? Um, at this point, the Board can have a Board opinion, which is the entire Board, um, provides it's, you know, majority vote opinion. Um, you are also allowed to have concurring or dissenting opinions. So, if each-, if a particular Board Member has a strong feeling that is separate, and, and distinct from the overall Board's, uh, general opinion, you can provide that as well. Um, I will just note that, you know, this is a serious consideration, and, so, if the Board wants or feels like they need additional time in order to provide that input, now would be the time to request that.

Ms. Short: So, what I was just going to say is I would like to take ten minutes for a recess, so that we as a Board can process everything we've just heard. Everyone can use the bathroom and then we'll come back and finish our discussion on Bill 21. So-...

Mr. Ho: Madame Chair, can I ask one more question-...

Ms. Short: Please.

Mr. Ho: ... that just popped into my head-...

Ms. Short: Please.

Mr. Ho: ... um-,...

Ms. Short: Now or never.

Mr. Ho: Quick question. With regards to going to second cousin level, can you provide a little bit more clarification on why, um, expanding that-...

Ms. Kimball: Yeah, um, you know, the best parti-, person to speak to that is, um, Council Member Onishi who, who made the request that, that it go out to that level, but basically, um, it really has to do with the perception of the hiring practices in the County, and ensuring that the public and folks that apply to work in the County have a sense of fairness, and that the proper procedures are being taken and folks are not, um, hired into positions just based on, as, as, Tyler Benner noted, um, who you know, right? And so, um, the feeling was that, you know, a lot of this is, is about just disclosure, about ensuring that there are proper procedures in place so that folks are not directly responsible for the, the review-, the, the, periodic reviews, the hiring of folks that they are close to as a family member. So, the sense about broadi-, broadening it to second cousins was really around just to-, reinforcing that perception that we want to make sure hiring is merit based. We are bringing the best quality candidates in and there's no nepotism, if you will.

Ms. Fukumitsu: Thank you for that. I just-, but that also takes me to living in the community that we live in and the question, or concerns that you brought up like, fr-, the friendship thing, right? We're using this word nepotism, but we're just saying perception and it's like I don't want to hire my friend, so, like we're kind of targeting the family piece, but we're not addressing maybe the hiring practices that could be in place to ensure that we're getting qualified applicants and we're being ethical in our practices, right? Because we're not a, we're not addressing that I know you for long time twenty years part. That's kind of my concern. I don't know if it's a question, I have a question in here somewhere, but yeah. Sorry.

Ms. Kimball: Yeah, I, if, if I may, Chair, um, you know-, welcome to the sausage making that is legislation and the legislative process. Um, you know, we, we have to take nips at the apple and it's very hard to come up with something that addresses every concern. Um, you know-, when, when we are on the Council and we have somebody that's an applicant for something in front of us that we've known for a long time, we have to make that disclosure, right? And, and if the rest of the body feels that there's an inappropriate relationship

that could actually influence the decision, you, you-, that's earlier, right? I've known this person for a long time, I might-, I don't think I'm going to be biased in this decision. We have to do those same sorts of things. Um, so, while your, your concern is, is veritas in terms of other things that we have to look at and consider in the hiring process, um, there are some controls, of course with the whistleblower programs and other, um, things, but this Bill is really just focused on that nepotism piece. I, you know, I like to do comprehensive things that'll check all the boxes, but my experience over the past five years working in the Council has been, um-, we are an incremental process, and for now, this is the first bite at the apple.

Ms. Short: Thank you very much.

Mr. Ho: I got mo-,...

Ms. Short: Last thing-...

Mr. Ho: ... I got another one-...

Ms. Short: ... then we're going to recess-...

Mr. Ho: Sorry, I'm so sorry. Um, Chris Ho. So, um, kind of going back to section 4, section 2, letter h, um, on page 3, I'm sorry if you have that page number or not, um, it's-, page number 3, it referenced that, um, those who are currently already hired, this would not affect them. Is there a plan to, uh, I guess educate the public and everyone that this particular is, um, addressing the hiring practice, not the maintaining, um, or the retention, as it states, um, practice, um, because I, yeah. I think that's my question.

Ms. Kimball: Yeah, I think one of the things that I've just kind of picked up on already from our conversation here today is that we probably need to do some public outreach around this, you know, make sure that folks are aware that this doesn't prevent them-, if they've got a family member in the County, this doesn't prevent them from seeking a position in the County. So, you know, I'll work with Director and use our, our tools that have for public outreach to ensure that there's some communication about what this Bill actually means. I mean, these public forums, um, as much as people pay attention to them, there's one avenue that we communicate that information and that's why I wanted Mr. Benner

here and, um, to, to kind of share that history. But, um, yes, I think that point is well made, from, from both of you all here that, that we need to do some public outreach around this, should it go forward.

Mr. Ho: Awesome. Thank you.

Ms. Short: Thank you very much. At 11:04, we are going to take a recess, we will resume at 11:15 to continue our discussion of this Bill. Thank you ev-, very much everyone.

***\*Board members take a short recess\****

Ms. Short: 11:18 a.m., Thursday, January 13, 2025, this is your Chair, Rabbi Rachel Short, reconvening the Hawai'i County Board of Ethics, at 11:18 a.m. I apologize that we are a few minutes longer than what we said we were going to be, we had to wait for our Zoom to restart for our Zoom participants. We are back on the continued review and comment of Bill 21. I will give the Board an-, one more opporutnity to ask any questions before we move on to our discussion.

Ms. Wan: Uh, Deputy Corporation Counsel, Sylvia Wan, I'll just notice during the break, um, that the Director of Human Resources did want to make a point of clarification, so if the Board is willing to hear that at this time, I'd, I'd like to ask her to provide that-...

Ms. Short: Everyone is nodding yes, please provide your clarification.

Ms. Tokihiro: Sommer Tokihiro, Director of Human Resources. I just wanted to clarify in section 4(2)(a)(1), the word appoint is used, but when we talk about the merit principle, we're generally looking at civil service positions. So, um, you know, if this body wants to make a clarification or recommendation that this applied to civil service positions, that was the intent, but the use of appoint could be causing some, um, you know, confusion there as far as like appointments by the Mayor, etc. So, just wanted to note that, that, um, the merit principle covers civil service, so if you wanted to, in your recommendations, just something for you to consider, um, you could clarify that.

Ms. Short: Thank you for that clarification. Does our Board have any more questions at this time? Member Ho.

Mr. Ho: Chris Ho. Um, hi. Um, quick question. When-, so, in here, um, going back to the part where I asked about the Board. Um, so, section 4, section 2, letter e, with regards to the Board, um, if this particular nepotism section is in reference to hiring, I guess I'm confused on if it comes-, if something happens within the hiring process, and then it comes to us, at what point do we get to the line or cross the line into an HR issue, which from my understanding, we as an Ethics Board, do not touch HR issues, or would really like to not deal with HR issues, because that's really not our responsibility.

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan, can I ask for a point of clarification on your question?

Mr. Ho: You could try.

Ms. Wan: So, um, I understand-, I'm just going to read this for everybody who's present, um, this section that you're talking about. So, as it's present-, presently-, is, um, presented in Bill 21, section e reads, section e, upon application, the Board may grant an exception to an employee, officer, or agency, that is unable to comply with this section for good cause, including a demonstrated lack of qualified personnel or applicants. So, is your question that you would be asked to determine whether or not there's a demonstrated lack of qualified personnel or applicants? Is that your concern?

Mr. Ho: I think the concern lies in the word choice for that particular section, um, that it may lead to, um, us having to ask one of-, that question, possibly others, um, as it relates to anything to deal with HR, or a hiring practice.

Ms. Wan: So, you're also looking at the term good cause. I, I notice you're shaking your head yes.

Mr. Ho: Yeah, because I'm hoping that if said agency or hiring person comes, that they provide us with a little bit more detailed information, um, and then you or, um, someone from your department might also need to come in, um, and provide some more clarifying information, um, because I would hate for it to fall on our shoulders to bear the burden of proof for some of these, some of the language that's in here, and I just want to make sure that we establish a very clear line that as the Ethics Board, we go

here, once it goes to here, it then goes to HR and we do not have anything to do with it.

Ms. Tokihiro: Yeah, it would seem that there would be additional information that would be needed in order to, you know, um, be able to kind of prove that demonstrated lack of qualified personnel or applicants, right? That would-, additional information would have to be provided by the department, um, who would be making, um, this application to the Board, and then possibly, additional information coming from Human Resources.

Mr. Ho: Thank you. Follow-up question, if I may. When it comes to, um, that particular line, um, lack of qualified personnel or applicants, is there a set time frame in which an applicant pool is remained, um, is open, um, and then once that time frame has expired, um, and there's no one there, then they would approach saying well we've had it open for two months and no one's applied.

Ms. Tokihiro: Yeah, so, um, for our initial recruitments, open competitive recruitments, all of our recruitments run for a period of ten days. At the end of that ten day period, if we haven't received five or more qualified applicants, the recruitment converts to an open continuous recruitment, and that recruitment process could be ongoing for, you know-, usually it'll occur, um, until we receive five qualified applicants, at which point it would be closed and then those names would be referred to departments. Um, when we refer eligible lists to the departments, those lists are good, initially, for a ninety day period, and then can be extended upon request for an additional ninety days. So, the eligible list for, which is qualified applicants for a particular position, that have been referred to a department, those lists have a maximum time frame of six months. Then that list would expire, and if a position opened, the recruitment process would begin again.

Mr. Ho: Thank you very much.

Ms. Tokihiro: You're welcome.

Ms. Short: Does anyone else on the Board have questions? Are we ready to, um, discuss, come to a consensus as a Board or share our individual input?

Ms. Wan: So, at this point I think you would be calling for a motion.

Ms. Short: We are call-...

Ms. Wan: You would be, you would be calling for a motion to open up discussion-...

Ms. Short: Okay, I'll call for a motion to open up discussion on Bill 21. Would someone like to make that motion?

Mr. Ho: Chris Ho, move to support Bill number 21, however, with some recommended friendly amendments. So, that's the actual motion.

Ms. Short: No, we need a motion-...

Ms. Wan: No, no, no, no-...

Mr. Ho: No.

Ms. Wan: ... no, that's correct, what, what Chris is doing is correct.

Ms. Short: Just so we can get to the discussion.

Ms. Wan: Yes, so, whether you support it or not is going to be the ultimate reason of the vote, right? That's the-, but he's, he's, right now, proposing that this Board adopts the position-...

Ms. Short: That we support it-...

Ms. Wan: ... of support-...

Ms. Short: ... and then we discuss it-...

Ms. Wan; ... that you support the Bill-...

Ms. Short: ... okay, can I get a-...

Ms. Wan: ... with friendly amendments.

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

Mr. Ho: Would you like me to restate it?

Ms. Short: We're going to-, Chris is moving that we as a Board support Bill 21, and then we will go into discussion, to discuss the friendly amendments we as a Board would make. To Bill 21.

Mr. Ho: Yes, and no. Yes, the motion is to support Bill number 21 with recommended friendly amendments, not just full-on support it and then go into a dialogue on the amendments.

Ms. Short: So, at this time, we as a Board can discuss whether we agree or disagree with the friendly amendments during the discussion on this motion. I just want to clarify for everyone.

Ms. Wan: Okay, before we start talking about this, can we get a second?

Ms. Short: Basically, we just need a second to have this discussion, is what I'm hearing for-...

Ms. Fukumitsu: Vice Chair Fukumitsu,-...

Ms. Short: Thank you.

Ms. Fukumitsu: ... second.

Ms. Wan: Thank you. Any-...

Ms. Short: Any discussion to be had?

Mr. Ho: Okay, speaking to my motion, um, well the intent for this Bill is there. We see it, it's relevant, and, um, it, it's a necessity. There are some components within the Bill that some of us have some recommendations-, recommendations, sorry, I can't even speak. Recommendation, um, for some friendly amen-, uh, amendments. Um, I guess I'll leave it to my colleagues if there's some amendments that you want to speak to.

Ms. Wan: So, at this point in discussion, right, because his motion is to support with suggested friendly amendments, if you, Members, want to voice your opinion as to what would be a friendly amendment, you can do that during discussion. Whether or not the mover decides to adopt that in his overall motion will be up to him. So, please discuss.

Ms. Fukumitsu: Um, Vice Chair Fukumitsu. DCC Wan, can you clarify for me the section that we were discussing in, uh, the document that you have, um, regarding Native Hawaiian hanai, versus general adoption practices? That's sort of my-...

Ms. Wan: Okay. So, um, my understanding is-, and, ju-, I have to paraphrase your question because you're, you're referring to an outside conversation at this point in time. Um, so, right now, your concern is with the State's definition of relative which includes the term, um, any individual who has become a member of the employee's immediate family through the Hawaiian hanai custom.

Ms. Fukumitsu: Yes, that is my-...

Ms. Wan: That's your concern-...

Ms. Fukumitsu: ... concern-...

Ms. Wan; ... and then you have a likewise concern relating to Bill 21 where it relates to an individual who resides in the same dwelling unit, skipping down, and the Hawaiian custom of hanai.

Ms. Fukumitsu: Correct, so sorry. Yes.

Ms. Wan: Yes. So, your concern is relating to the call-out of this immediate family member being through the Hawaiian hanai custom, whereas the State Statute that, um, you were referencing during the last discussion, was HRS 454F-1-...

Ms. Short: Shannon Matson is trying to get into the Zoom.

Ms. Wan: ... okay, um, in that particular definition, under that State Statute, they do not say hanai, they instead use the phrase and equivalent adoptive relationships. Okay, so, that was the information that was provided to you. You can talk about what that means to you. That's your dis-, that's your discussion.

Ms. Short: As our Chair, I'm, I will go ahead and, you know, speak for my behalf. Um-...

Ms. Fukumitsu: She's still speaking, she's still-...

Ms. Short: ... no she didn't, she threw up her hands. Are you still going?

Ms. Fukumitsu: Go ahead.

Ms. Short: No, go, Vice Chair.

Ms. Fukumitsu: No, uh, thank you. I just, I do have concerns about the, the Hawaiian custom, because adoptive practices can cross different cultural lines, I guess, and I just-, yeah, I, I'm just not comfortable with that Hawaiian hanai custom being part of the language. I don't like it at the State level either, but-...

Ms. Short: But I think that, for me personally, it goes back to Kelly's original point when we first began this discussion of this Bill, where we have to acknowledge things are different in Hawai'i. Like, I can see where we have had similar situations here on the Board of Ethics where myself as Chair has had to recuse themselves from petitions we've heard because someone came to me, that I did live with at one time, and would potentially consider hanai family. So, from my perspective, the State kind of sets the precedent for what we are supposed to do as a County, and if this language is already in here, even if it makes us uncomfortable, there-, we've acknowledged on the record that things are different here than on the mainland. That was kind of the first point. And we do hanai in Hawai'i in a way that I don't believe happens anywhere else.

Ms. Fukumitsu: Uh, I, I would disagree.

Ms. Short: Okay.

Ms. Fukumitsu: Uh, you know-, you, sorry, DCC Wan-...

Ms. Short: I don't, I don't know what-...

Ms. Fukumitsu: ... there, I, I just think that-...

Ms. Wan: Okay.

Ms. Fukumitsu: ... you're calling out a specific culture, and I think adoptive practices across indigenous people happen. I don't think we need to include the word Hawaiian for this purpose. Like, if I identify as Native American, and I have an indigenous cultural practice, then this doesn't apply to me. Like, I hanai you through my Native American Practice. I don't a-, I don't think the word han-

Hawaiian in this case is appropriate. There are different hanai cultural practices a diff-, across different cultural groups-...

Ms. Short: But, so, then would it just be the word hanai-...

Ms. Fukumitsu: ... hanai. I don't have a problem with hanai-...

Ms. Short: But that's a Hawaiian word, isn't it? So, Hawaii-...

Ms. Fukumitsu: ... but that's why my recommendation would be to use general adoptive practices, as I asked DCC Wan for the language from a different section of the-, it's the State level, correct?

Ms. Wan: Yes, that's the State's-, it's a different State Statue. Deputy Corporation Counsel, Sylvia Wan. So, I'll, um, I'll just relate that an-, in the discussion on the recess, there was a discussion about other cultural practices by other entities that do appear in the other United States. So, she did bring up some native practices, but some of them are not even necessarily native practices. There are other cultural practices, and I brought up a personal story about my own family, uh, who are not Hawaiian, um, who have, uh, Chinese ancestry, among a number of other things, and, you know, there are similar adoptive relationships and customs throughout other cultures, and I think what Ms. Fukumitsu is trying to highlight is the fact that we don't want to necessarily, uh, pigeonhole this particular relationship to a particular ethnic group, or a particular cultural group. Um, I'm sorry, and, because I'm speaking for you, can you please just reiterate if, if what I just put in the record is correct?

Ms. Short: I appreciate that clarification.

Ms. Fukumitsu: No, thank you, DCC Wan. Yes, my concern with this is we are calling out a specific cultural group, and it's-, could almost be discriminatory to me as a Native Hawaiian. That's my concern. So, if we could use general language to talk about adoptive customs, I would be way more comfortable with that.

Ms. Wan: Um, so, at this point, I, I do see that, um,-...

Ms. Short: Council Member Kimball.

Ms. Wan: ... Council Member Kimball has indicated she might want to jump in. Um, I will note that generally speaking, as per practice for this Board, we generally don't allow that. However, it is at the leave of the Chair and this Board if you want to allow that.

Ms. Short: Does anyone have an objection to allowing Council Member Kimball to respond? I believe her input's extremely relevant here.

Ms. Valenzuela: Can we still have discussion-...

Ms. Short: We're still going to continue our discussion after her input. Does anyone object?

Mr. Ho: Chris Ho. It's not that I object, I would just caution us, because if this does happen, um, and others rewatch what we do, or re-read what we do, um, and we deny someone the opportunity to do what seems as though what we're going to do, then we're setting us up-, ourselves up for some issue.

Ms. Short: I can think of other instances where we have allowed people to respond during our discussion.

Mr. Ho: If that's the case then I don't see why we even asked.

Ms. Wan: Well, I, I will note that it's extremely rare. It is extremely rare.

Ms. Short: But it has happened, correct?

Ms. Wan: Generally, not when it comes to petitions, but this is a unique situation and a unique consideration for the Board.

Ms. Short: Personally, as our Chair, I believe we are being asked to amend the County Board of Ethics, the person re-, with that Bill, present before us who's discussing amending it, I would like to hear her input. So, if there-, is there an objection, I guess would be my question.

Ms. Wan: Just, just Chris.

Ms. Short: Are you objecting, Member Ho?

Mr. Ho: It is not an objection. It is just stating-...

Ms. Wan: Okay.

Mr. Ho: ... possibility, and as a reminder as the Chair, you are at will to really do whatever you would like, and say as a Chair, I will now relinquish that is within your capabilities.

Ms. Short: Yes.

Mr. Ho: You actually don't need to ask us.

Mr. Short: I, I wanted to know if there was an objection, but seeing and hearing that there is no objection from the Board to hearing you, Council Member Kimball, please share.

Ms. Kimball: Thank you for your, um, openness, and, and I will state that I believe this is the first time a Bill has been referred to the BOE, so, you know, all bets are off on what standard practice is. But, I just wanted to make sure that, you know, hopefully what you'll be providing us with is a memo with the specific language of the recommendations, um, for the amendments, and, you know, if I were to speak to the intent of this clause, both in the HRS and in the proposed Bill, it's really to distinguish the formal adoption practice from other informal adoption practices. So, I think the wording could be either changed to relations through formal and informal adoption practices, or, if you want to specifically acknowledge traditional adoption practices, rather than saying it would be formal adoption and traditional adoption practices, without specifying Native Hawaiian in particular. And I would, I would remove the word hanai just because that is going to definitely fall in that same line of, of just separating from other adoption practices.

Ms. Short: Thank you for that clarification, and that makes a lot of sense to me, so I, I appreciate that, and I appreciate, um, Vice Chair's input on that very much. If there's nothing else to share, I would like to continue our discussion. At this time on, as we heard Council Member say, um, we as the Hawai'i County Board of Ethics are reviewing Bill number 21, which would change the Board of Ethics Code, that we as a Board have swo-, been sworn in to uphold, and are being asked to give our input on, um, so, yeah. We're doing things-, Chai-, Member Ho wants to talk.

Mr. Ho: Um, Chris Ho, quick question. Um, with regards to any changes to Bill 21, would it be coming back to us prior to first reading, or?

Ms. Short: Our Corporation Counsel is nodding her head no, I believe, but Council Member-....

Ms. Kimball: Well-, the, the, the Council would retain the authority, should we choose, to re-refer it back if we amended it. It would be unusual, uh, but it was unusual to refer this to you in the first place. So, no, it will not come back by any required pathway, but it could, if we chose to.

Mr. Ho: Thank you.

Ms. Short: Thank you for that clarification. Continuing our discussion because we do still have a motion on the floor. Board Member Valenzuela.

Ms. Valenzuela: I keep-, so, first of all, I just want to say thank you, you know, for you guys coming forward. But I just want to state, for myself, for the record, as a local girl, it concern-, this concerns me, and it concerns me just based on numbers, and the host culture of Hawai'i. So, in a population of 1.4 million, 736,000 work for the State, that's half of the population. How many else work for the County? My point is if this many people work for government, the chances of people-, of all of us being related-, you know, I, I can say for myself, I, I don't have any relatives except for a brother here. Everyone else died or moved away. My concern is, and it hurts my heart, is that, one, I feel that the local community is going to shy away from applying because of this-, this is just my opinion, number one. And number two, we keep talking about keeping our people here. Right now, how many openings are at the County, right now? I mean, the last I heard, it was like 300 something openings. Is that still about the same number?

Ms. Tokihiro: Yeah, we have a significant number of vacancies.

Ms. Valenzuela: Okay, so, my point is-...

Ms. Wan: So, so-...

Ms. Valenzuela: ... if we get, we-...

- Ms. Wan: ... Ms., I'm sorry, Member Valenzuela, at this point, if we can try to keep the discussion more towards the Board at this time, and, and not engaging our members. I know there was an anomaly because there was, uh, a little bit of additional input, but I would like to try to keep us more focused on the motion at hand, and at this point it does appear that you are, you are providing input towards the overall motion, um, so, if you could please try to keep it to that, that'd be great.
- Ms. Valenzuela: Okay. So, getting back to my point. So, with that many openings, the chances of somebody being related are so high, is what I'm trying to say. A good example would be how many of-, how many times have I asked people to be a-, go apply for a commission, and the first thing they say was, I got to go before the County Council Members, forget it, I don't want to do that. You want me to get grilled, for free? I mean, I'm just being honest, right? So, in this case, to me in Hawai'i, and I'm sorry, I'm going to state this up for record, as an-, as a Board Member I have that right to do that, this concerns me. It really concerns me. If we really adhere and we're so strict to it, do we really think we're going to have employees from Hawai'i? Born and raised in these islands, or are we going to start outsourcing, looking elsewhere, when the people here have a hard time making it? That's my concern, and I just want to say that for the record.
- Ms. Short: So, I'm hearing, um, you are against the motion, is basically what I'm hearing from your input? That you are against our motion to approve, and, as a Board, our support of this Bill with some friendly amendments, is that correct?
- Ms. Valenzuela: I, I'm not against the Bi-, the Bill because I understand the intent of it, you know, but when I asked-, I, I did this this past week. I asked a bunch of people-, give me your definition of immediate family. Only business colleagues. Do you know what the definition was? Mother, father, brother, sister, siblings.
- Ms. Short: Right, I-, so you are not in support of the motion I guess is what I'm trying to get to?
- Ms. Valenzuela: Right. I'm not.
- Ms. Short: Okay. Thank you. Um, I'd like to give my input at this time. I actually think it could be the opposite, personally. I've talked to

people who want to apply for County positions and say things like, oh, I don't know anyone, so it's pointless. Oh, I'm not related to so-and-so, so why would I even apply? I think, if anything, this Bill would encourage more people to apply because now there are guardrails and safe things in place, and we're not talking about that they couldn't get that job, we're just talking about these people recusing themselves, just like we do, from a supervisory position where, to me, it's highly unethical if you're overseeing your cousin, your grandson, or any of this, or, you know-, even for me as Chair, I would never sit here, serving our community, or on the County of the Board of Ethics, without recusing myself from someone who I know that I'm related to, and it would impact my decision making process. That's why we have seen-, I have chosen, as Chair, to recuse myself and sit out certain petitions where I feel like I-, adoptive family, someone I've lived with or someone has-, and I, I personally believe that if we weren't to do that, that would look even worse. So, I, I-, since we are having a discussion, I do support, obviously, the motion that's at hand with these friendly amendments, changing the adoptive language, and some other things. I believe that the State sets the precedent-, what we should follow, as the County Board of Ethics. It appears to me that Bill 21 is taking that language, pretty much verbatim, um-, and I also believe that it would actually encourage more of our local community members to apply for jobs for the County, because all that happens is, oh, so-and-so's not going to oversee my interview. Oh, my brother's not going to be my boss. To me, that's kind of how it should be, no matter what. That, to me, would be highly unethical. It's-, you should never be-, you know, my mom shouldn't be my boss. I mean, she's my boss is the bigger sense of the word because she onl-, you know, she's the only one I answer to besides God. But I don't believe in a salaried, paid position, there's anything ethical about any of these people having their immediate, or direct supervisor, or the person that interviews them, or hires them, be in this sort of relation. So...

Ms. Wan: Um, so, can I put point of clarification-...

Ms. Short: Please.

Ms. Wan: ... for the record? Um, because I saw you circling repeatedly, and I'll just note for the record that the circling you are doing, just because I can see it from here, was to the State definition of

relative. So, just to clarify your input, you're in support of the State definition of relative with the adoptive language being amended-...

Ms. Short: To remove Hawaiian hanai custom and speak more to what Council Member Kimball said-...

Ms. Wan: And to speak more towards informal-...

Ms. Short: Correct.

Ms. Wan: ... adoptive practices.

Ms. Short: Yes. Thank you for that clarification.

Ms. Valenzuela: Okay, let me just jab you really quick because I probably didn't explain myself. I, I'm not that I'm not for it, but I'm not for the definition being so broad. That's what I'm not for. I wouldn't want my mother as my boss, or-, and I don't know if you've ever played a sport or coached, when I coach my kids, I'm harder on my kids than I am on other people on the team, right? But that, that, I'm not for that. What I am not for is the hanai, and aunties, and second cousins and third cousins and fourth cou-, I mean, I, I honestly think that is ridiculous.

Ms. Short: So, I guess my question would be that-...

Ms. Valenzuela: Because when-, let me just finish. Because even like, commissioners. How, how are we appointed? We know somebody that asked us, right? All the commissioners within the County of Hawai'i are asked by somebody in the County-, hey, there's an opening, we really need people to volunteer. Hey, would you like to volunteer? Somebody knew somebody, and talked to some commissioner to say, hey, can you-, do you want to apply? If we go so broad then, I mean-, I'm touching on things that are, are kind of uncomfortable, but it's true, right?

Ms. Short: Vice Chair, please.

Ms. Fukumitsu: I, I understand that, but, you know, just for myself, that's not how I found my way to this Board, for the record, right? I looked for an opportunity to serve my community. Um, I, I, I do, um-, I get where we're going with this and I can be supportive of it, but like, for me, um, the bigger picture is if we're talking about perception,

and, um, good hiring practices. It doesn't necessarily start in a Code of Ethics. I mean, it can live there with some definitions, right, but the bigger conversation is HR hiring practices-, mechanisms in place to have a system of checks and balances. Even in, you know, the executive branch of our County government, right, that we are transparent, that we promote, um, transparency, and ethics, and accountability, right, so, I get it, but I, I get concerned when we start to create laws and definitions and things that just want to put a band-aid, maybe, on the bigger issue, and I, and I, I, I don't want us to go so down a rabbit hole with definitions of relationships that become hard for us to manage. And as a Board, ultimately, right, we would receive a complaint of a violation of this policy, or requests for exemptions-, and how do we monitor second cousins and I-, I just-, I don't know. But, yes, I mean, I get where we're going, so, I just-, that-, I guess my opinion/question, I don't know. Chris Ho, go ahead.

Mr. Ho: Chris Ho, hi. Circling back to my actual motion, um, I have a few amendments, um, based on the conversation, um, one of which is removal of the word Hawaiian from section 3(3) and replace with general adoptive practices.

Ms. Wan: So, can I clarify that for you, because I think-...

Mr. Ho: Or whatever that-...

Ms. Wan: ... so, I think the-, so-, under Bill 21, you're looking at section 3, immediate family member definition, section 3, the last phrase, and the Hawaiian custom of hanai.

Mr. Ho: That is correct.

Ms. Wan: So, you're looking to replace that language with-...

Mr. Ho: General adoptive practices, or um, sorry, let me take that back. You said it exactly how I would really like to see it, I don't remember what you said.

Ms. Short: Council Member Kimball, would you mind, please, repeating the way you phrased it before?

Ms. Kimball: Yes, I, I suggested either, um, and relations through formal and informal adoptive practices, or relations through formal, er-, sorry,

adoption-, relations through adoption, or traditional adoption practices. So, either one of those, I think, would-...

Ms. Short: So, you said-...

Ms. Kimball: ... satisfy what I understand.

Ms. Short: ... relations through informal or formal adoptive practices?

Ms. Kimball: Formal and informal, as one mechanism, or if you wanted to specifically call out traditional as opposed to informal, or you could actually do formal, informal, and traditional adoption practices to cover all of the bases.

Ms. Short: ... formal, informal, info-, so, we have formal, informal, and traditional.

Mr. Ho: So, the amendment would read removal of the word Hawaiian from section 3, number 3, and replaced with formal, informal, or traditional adoptive practices. That's-...

Ms. Short: I believe you want to strike the whole end of the sentence. Hawaiian custom of hanai, is that correct?

Mr. Ho: ... formal, comma informal, and the traditional. Or-...

Ms. Wan: Well, I think, I think traditional is-, I think this is more accurate because traditional wasn't, wasn't like a different option.

Mr. Ho: Okay. So, yes. Yup, so, that, um, amendment would read removal of the Hawaiian custom of hanai and replaced with relations through formal and informal adoptive practices. DCC Wan, do you want to do each amendment by themselves, or, because I have three-  
...

Ms. Wan: I think that, yes-...

Mr. Ho: Okay.

Ms. Wan: ... I think you should do them individually, so the Board can adopt them each in turn. So, that's your motion to amend, that's friendly amendment number one, you need a second.

Ms. Fukumitsu: Vice Chair Fukumitsu, second.

Ms. Short; Any discussion to be had? Hearing and seeing none, we are calling on motion, we're-, I'm calling for the vote to support Bil 21-...

Ms. Wan: No, no-...

Ms. Short: ... with the friendly amendment-...

Ms. Wan: ... not yet.

Ms. Short: ... just the friendly amendment.

Ms. Wan: Right now, we're just doing amendment number one, so this is calling the question on amendment number one which is this legislative change.

Ms. Short: So, I guess I'm trying to figure out how we phrase this within our decision-...

Ms. Wan: You're not, you're not doing the top one, you're just doing the middle one.

Ms. Short: So, we're just approving the friendly amendment to section 3-3 on Bill number 21 to remove Hawaiian custom of hanai and replace it with relations through formal and informal adoptive practices. Any discussion to be had on that? I will call for a vote. All in favor, please say aye.

Ms. Short: Aye.

Ms. Fukumitsu: Aye.

Mr. Ho: Aye.

Mr. Paiva: Aye.

Ms. Short: Any opposition, please say nay.

Ms. Valenzuela: Nay.

Ms. Short: The motion passes, 4 to 1, thank you.

**Motion and Vote: Board Member Ho moved to adopt a friendly amendment to Bill 21, Section 3(3); Vice Chair Fukumitsu seconded; Four members voted aye; One member voted nay; Motion Passes (11:53 a.m.)**

- Ms. Wan: Um, 5 to 1.
- Ms. Short: 5 to 1, excuse me. I didn't count myself.
- Mr. Ho: That would still be 4 to 1. One, two, three, four-...
- Ms. Short: It would still be-, Kelly said no, it's 4 to 1.
- Ms. Wan: I'm sorry.
- Ms. Short: I was correct.
- Mr. Ho: Do we have a Board member in our pocket?
- Ms. Short: So, the motion passes, 4 to 1. Okay, thank you. Moving along to, I believe, your next friendly amendment, Member Ho.
- Mr. Ho: Thank you, Madame Chair. Um, a friendly amendment number two, I don't really-, it's-, I'd like-, I'm just going to say it, I don't know how to word that actual amendment so, if you could help me with this, um, make reference to civil service appointments in section 2(a), number 1.
- Ms. Short: Section 4, section 2(a)(1), correct, on page 2?
- Mr. Ho: That is correct.
- Ms. Short: Okay, thank you. Your friendly amendment?
- Mr. Ho: That was the friendly amendment, I just didn't know how to actually phrase-...
- Ms. Short: You want to-...
- Mr. Ho: ... the actual amendment because I don't know-, sorry, I can't-, I can't speak because I have no second.
- Ms. Short: I, I guess I'm confused what the motion is.

Ms. Wan: So, Deputy Corporation Counsel, Sylvia Wan. Right now, um, Member Ho is asking that the Board adopt as second friendly amendment that under Bill 21, section 4, as it currently reads section 2(a)(1), that there make a reference relating to appointments that it's referring to civil service. So, unlike-...

Ms. Short: Okay.

Ms. Wan: ... the previous amendment, it's not act-, it's not directing Council to adopt specific language, it's asking Council to adopt a particular idea to incorporate in here. So, it would be the language for the, for the, um, Council to decide on how that would be reflected.

Ms. Short: So, just to reiterate, the motion is for Council to consider how they would phrase section 4, section 2(a)(1)?

Ms. Wan: Making a, making a reference to civil service for appointments.

Ms. Fukumitsu: There's a motion on-, Vice Chair Fukumitsu, there's a motion on the floor.

Ms. Wan: Not yet.

Ms. Short: No.

Ms. Fukumitsu: I thought-...

Ms. Short: There is no motion on the floor.

Mr. Ho: I, I submitted a motion for this as a friendly amendment, but I need a second in order to-...

Ms. Short: But I don't-...

Mr. Ho: ... even answer any of your questions.

Ms. Fukumitsu: Okay, Vice Chair Fukumitsu, second.

Mr. Ho: Okay, now I can, now I can an-...

Ms. Short: Now we can have discussion-...

Mr. Ho: Yes.

Ms. Short: Okay.

Mr. Ho: That's where we're trying to go.

Ms. Short: Okay.

Mr. Ho: So, um, speaking to this particular amended motion, um, it was based off of something that, um, the HR director had stated with regards to appointments of civil service positions. Um, if I-, remembering and recalling the conversation correctly, and please, by all means, uh, let me know if I'm totally off the mark on this, in this particular section it speaks to appointment-, um, the appointment of whom specifically, civil service-, a civil service position, because, if I'm not mistaken, that position is an actual paid position versus any other like, board appointment, um, which would not be a paid position, because this references paying that particular person, so is just asking to clarify a little bit more what is meant by the term appointment so that it's understood by all.

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. I'll also note that there are other paid positions that are also appointed, and not civil service.

Mr. Ho: And I can get on that-, just kidding. Trying to break the ice, you guys, it's so hard in here. Okay, so, I guess the-, may I ask the guys a question?

Ms. Wan: Well, why don't you ask the question first-...

Mr. Ho: Okay, let me ask the Chair.

Ms. Wan: ... because-...

Mr. Ho: Um, I'm a little, I'm still a little unclear what the actual term appointment in this particular section would actually reference to with regards to hiring practices.

Ms. Wan: Okay, so, that sounds like a part of the reason why you would want a clarification, so-...

Ms. Short: So, you're asking if we can hear from Council Member Kimball for clarification on sect-...

Ms. Wan: Well, no, I don't think you need to necessarily-, sorry, Deputy Corporation Counsel, Sylvia Wan. I don't think you necessarily need to answer that question today. The point is, is, what is the Board's opinion about the way that this presents, presently. So, right now, um, Member Ho is stating that he has questions and concerns around the word appointment and what that means. He is suggesting the-, that the Council make a clarification that appointment is referring to civil service positions and not other appointed positions. That would include non-paid positions like this entire Board-, this entire Board were appointed. Um, that I will note, um, are not paid positions so it's not actually qualifying under this section, but what you're making a distinction on is appointments for paid positions that are not civil service. There is an entire realm of civil service positions that are appointed that are paid, um-, I believe my position as Deputy Corporation Counsel is considered an appointment, I'll have to get back to you on that, but, um, I might be an example of one of those things. So, there is a whole realm of like, exempt positions, that don't go through the civil service frame, so, I'm just providing that information to the Board for you to chew on. Right now, the motion on the floor is to amend, with this particular suggestion in mind. Is everybody clear on, on Member Ho's suggestion?

Ms. Short: I, I guess I still need some clarification. You just want this to be addressed in the Bill. You want some sort of ver-, um, language that distinguishes that?

Mr. Ho: That is correct.

Ms. Short: Okay.

Mr. Ho: I would just like some clarification, in writing, as to what the intent is, or-, sorry-, clarification in writing as to what appointment actually means.

Ms. Short: But my understanding, and maybe you can clarify this for me, Corporation Counsel-, this only applies to paid County positions.

Ms. Wan: Deputy Corporation Counsel. As the Bill is presently written, it says it only applies to paid County positions, so the question is when it comes to appointment, are you concerned or not concerned about the situation in which a director can appoint a paid position

below them? Do you want the nepotism section to also apply to directors that appoint paid positions that are not civil service? So, that's the question kind of before the Board.

Ms. Kimball: Chair, if I, I may, and I know that this is-...

Ms. Short: Yes, please.

Ms. Kimball: ... irregular, but it's going to be very important to the Council's processes to understand the Board's intent here, and more so than proposing a specific amendment, I think communicating to us what you think the appropriate coverage is, um, is important, and to Deputy Corporation Counsel's point, all of the staff in the Office of Housing and Community Development, for example, is not civil service. It's appointed staff. All of the legislative staff for the Council Member's Office and including the Clerk's Office and the Legislative Research Branch and Elections are not civil service employees. All of the deputies and-, directors and deputies of the different departments are not civil service employees. Their secretaries are not civil service employees, they're appointees. All of the Mayor's executive assistants are appointees. Um, so there is a significant number of the workforce that is paid and appointed, um, so I would say that the, the, the best thing for us in our process would be for this body to weigh in on whether or not it should only apply to civil service employees or should include those paid positions that are appointed, keeping in mind that the HRS would apply to those appointed positions that are not civil service as well.

Ms. Short: Thank you.

Mr. Ho: If I may ask a follow-up question.

Ms. Short: Please.

Mr. Ho: Um, with the language as it is currently written with the word appointment, um, and based off of what Council Member Kimball just said, does it read that way?

Ms. Wan: What way?

Mr. Ho: That it-, the appointment is for every single person, regardless of station?

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. So, right now, as it's presently written, it would apply to all appointments, um, that are paid, right? So, all of the boards and commissions that are not paid, this would not apply to, but it would, it would apply to all other paid appointments, civil service or not civil service, um, and in this instance, as Ms., uh, Council Member Kimball pointed out, like, the entire department of the Office of Housing and Community Development.

Mr. Ho: I'm going to, uh, that was really close, I'm so, so sorry. Um, I will remove, or retract-, withdraw, um, said amendment, um, which would move to the last one. Um, to replace the term immediate family member within section 3, um, and, uh-, with the term relative.

Ms. Short: So, can I get clarification on one thing on that?

Ms. Wan: No, not yet.

Ms. Short: Oh, I need a second so we can discuss. Would someone second that friendly amendment?

Ms. Fukumitsu: Vice Chair Fukumitsu, second.

Ms. Short: Discussion. Currently, the way the Code reads, is the terminology immediate family member throughout the rest of the Code?

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. So, at this present time, um, the term that is related throughout the rest of the Code of Ethics that's relating to family members is the term immediately family member. So, immediate family member does show up in your conflicts of interest section, or sorry, not your conflicts of interest section, it shows up on your contracts section. I thought it was your contracts section.

Ms. Short: That's what I, I know I, I, I know that I've seen the term immediate family member, yeah, used multiple places-...

Ms. Wan: So-...

Ms. Short: ... like, looking under section 2(a)(2)-...

Ms. Wan: ... in that, in that regard, um, if, if we're following what-...

Ms. Short: Contracts.

Ms. Wan: ... Board Member, um, Ho is trying to suggest, you would retain the immediate family member definition that's currently present within the Code of Ethics, and create a new definition which is relative as defined here under section 3, and the terms in the nepotism section would thus, need to be amended from immediate family member to relative, is that correct Council-, um, Member Ho?

Mr. Ho: I want to say yes, but I think I lost you half-way through.

Ms. Wan: Okay.

Mr. Ho: Um-...

Ms. Wan: That's fair.

Mr. Ho: ... so, if I could speak to the actual amendment that I made-...

Ms. Wan: Sure.

Mr. Ho: ... um, to just get some rationale, um, I have a very difficult time swallowing immediate family member to be a second cousin. To me, that is not an immediate family member. Immediate family member, and I believe, um-, I almost said Council Member, sorry-, yeah, Board Member, Board Member, um, Kelly had said, there are different definitions of immediate family, but more historical, immediate family is really kind of the nuclear family. So, to then re-introduce this new concept of, okay, now immediate family looks like this, that's going to be a really hard swallow for pretty much, uh-, I can only speak for myself, so it's going to be a really hard swallow for me. Um, if it-, if we were to keep second cousin, and it-, that's a relative. My immediate family is my mom, my dad, my grandparent's. I'm an only child so I have no siblings. Uh, that, it, to me is an immediate family, but once you start, um, going farther out and rippling away from the center, then that word im-, immediate isn't necessary. It kind of isn't actual immediate.

Ms. Short: So, then I guess my question would be, so then, everywhere immediate family is referred to in the Hawai'i County Code of Ethics, with this new definition and changing immediate family to

relative, does that then mean everywhere in the Code of Ethics, the term immediate family is replaced with relative as the term?

Mr. Ho: I can't speak to that, and that is not within the purview of the amendment or, um, I-, should-, let me take that back. I can't speak to that because we're not here to drastically change the entire Code itself, it's just one section.

Ms. Short: But that's what we're talking about.

Mr. Ho: I understand, thank you.

Ms. Short: So-...

Mr. Ho: So, it's kind of you're damned if you do, you're damned if you don't, so we can say yes to it or no-, I don't care, but I'm just stating that I, it's a hard pill for me to swallow, the usage of the term immediate family member to also include someone who, in my eyes, is not my immediate family.

Ms. Short: I'm going to allow Council Member Kimball to speak because I also saw the auditor say something to her.

Ms. Kimball: Yeah, thank you. Um, if I make, make a recommendation-...

Ms. Short: Please.

Ms. Kimball: ... that would be to, um, amend Bill 21, so that the definition of immediate family member matches the HRS definition which does not include second cousins. That would require, then, a further recommendation of amending that definition with the adjustments that we've made already to the adoption language, because the HRS includes that Hawaiian custom language. So, I believe that that's what you're-, your, your issue is not with the term, per say, of immediate family member, it's the definition that's been proposed. Going with the, the State definition is as far back as we can roll to, because that's HRS, so if that's the proposal-, as, of a, as I said-, the County's ordinance goes one step further to include second cousins, so if you're not in alignment with that, my recommendation would be to take the language for relative from HRS, put it under immediate family member here in Bill 21, with that amend-, further amendment around the adoption language.

Mr. Ho: DCC Wan, that's what I would like to do, however, would also still like to make sure that, that, um, Hawaiian hanai part is not part of that since we did that in the first one, so.

Ms. Wan: Okay, so, at this point, do you want to withdraw your-...

Mr. Ho: I do.

Ms. Wan: ... motion to amend, and you can restate it? Or, do you want me to try to restate with what I think you're trying to effectuate, and then you can agree?

Mr. Ho: To move forward in a quicker pace, I would love that.

Ms. Wan: Okay. So, as I understand it, Member Ho's motion, at this point, is to amend his main motion, so that with the proposition that Bill 21 be amended as far as the definition for immediate family member be instead replaced with the State's offered definition of relative, under HRS 84-13.2, with the exception that the language relating to Hawaiian hanai custom be removed, and instead inserted with the previously approved language of relation through formal and informal adoptive practices.

Mr. Ho: Exactly, correct, of what was in my brain.

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

Ms. Fukumitsu: Vice Chair Fukumitsu, second.

Ms. Short: Any discussion to be had? I'm going to call for a vote. Everyone in favor of, can you re-read the motion for the record?

Ms. Wan: I'd rather not, I think you understand it.

Ms. Short: To encompass it all, we are-...

Mr. Ho: No, just the amendment, we're just on the amendment-...

Ms. Wan: Just, just the relative language.

Ms. Short: I'm talking to Corp. Counsel. Okay, so Bill 21, with the amendment, is what we as-, we're supporting Bill 21, which was the original motion-...

Ms. Wan: No, no, you're going too far. Right now, we're just doing the amendment, so this is, this is just a vote on adopting the amendment. So, just call for the vote, and then you're going to do a motion for the overall, you're going to call the vote for the overall motion as amended-...

Ms. Short: But the moti-, but the amendment was withdrawn. We already approved this amendment, correct?

Ms. Wan: No, you're approving it right now-...

Ms. Short: Okay.

Ms. Wan: ... theoretically.

Ms. Short: Okay. So, we are approving the amendment to section 3(3).

Ms. Wan: Yes.

Ms. Short: Okay. 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 adopted friendly amendment to Bill 21, Section 3(3); Vice Chair Fukumitsu seconded; All member voted aye; Motion Passes (12:11 p.m.)**

Ms. Short: Now getting us back to our main thing, which is the Board of Ethics supporting Bill 21 with the amendment to section 3(3).

Ms. Wan: So, it's going to be Bill 21 with the aforementioned friendly amendments as adopted by the Board.

Ms. Short: Okay, okay. Can I get a se-, wait, we already have the motion, so any further discussion to be had? 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.

Ms. Wan: Um, Deputy Corporation Counsel. Kelly, I didn't see if you mentioned either or. Are you abstaining?

Ms. Valenzuela: Um, no, no, no, aye, yeah.

Ms. Wan: Thank you.

Ms. Short: Aye, okay. The motion so passes. Thank you very, very much for your time-...

Mr. Paiva: Thank you, you three.

Ms. Short: ... and for being here today, appreciate you being here and your feedback.

Ms. Valenzuela: Thank you for explaining, Council Kimball.

**Motion and Vote: Board Member Ho moved to support Bill 21 with the friendly amendments as adopted by the Board; Vice Chair Fukumitsu seconded; All member voted aye; Motion Passes (12:12 p.m.)**

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

- c. Petition 2025-04: Review of a Petition from a County Employee clearance and guidance regarding potential conflict of interest.
- e. Petition 2025-06: Review of a Petition from a County Employee clearance and guidance regarding potential conflict of interest.

Ms. Short: I'm going to call, um, out of order, I believe-...

Ms. Wan: Yes.

Ms. Short: ... because I know we have two people who work for the parks who I want to get to today because what they're asking about is coming up in April. So, at this time, we're going to fast forward on our agenda, oh no, we're not. Is it 2025-01?

Ms. Wan: No, that's-, 1 and, 1 and 2 is Council Member Inaba-...

Ms. Short: Okay, so 4-...

Ms. Wan: ... 4 and 6, you can call together-...

Ms. Short: Okay.

Ms. Wan: ... and then 5.

Ms. Short: Okay. So, at this time, I'm going to call Petition 2025-04 and 2025-06, at the same time since they are both in regards to the same thing. Can we get both of the petitioners to come up to the mic and state your name for the record? We will start with 2025-04.

Ms. Iyo: Uh, my name is Lindsey Iyo, uh, Recreation Division Administrator.

Ms. Short: Thank you.

Ms. Castro: Brittney Castro, Clerk for the Recreation Division.

Ms. Short: Thank you. So, just to make the Board aware for some housekeeping issues, we're calling, um, 04 and 06 at the same time because they are in regards to the same question. If you could both please state your name for the Board-, you already did, um, maybe just explain a little bit about your Petition, we'll start with 04.

Ms. Iyo: Sure, Lindsey Iyo. Um, so, we are petitioning the Board, uh, because we have submitted an application to receive contingency relief funds for our non-profit that we, uh, both sit on the Board for. Um, and these funds would be used for, uh, lei making classes, uh, that we would host for community members, uh, as well as, um, Merrie Monarch. Um, we also enter a pā'ū unit into the Merrie Monarch Parade, um, and so these funds would be used towards those classes.

Ms. Short: Thank you. Please.

Ms. Castro: Brittney Castro, um, so I also sit on the same board, um, as Lindsey, and, um, yeah. I don't know what else to say. Same.

Ms. Wan: So, I'm just going to clarify for the Board that-...

Ms. Short: Thank you.

Ms. Wan: ... um, Ms. Castro is, um, under Petition 2025-06-...

Ms. Short: Yes.

Ms. Wan: ... so when Ms. Castro is speaking, she's speaking to that Petition, and wi-, when Ms. Iyo is speaking, Ms. Iyo is speaking to her Petition, which is 2025-04.

Ms. Short: At this time, as a Board, let's address 2025-04...

Ms. Wan: No, you're, you're hearing them together, so you can, yeah-...

Ms. Short: Okay, 2025-04 and 06, do we have any questions for our petitioners?

Mr. Ho: Uh, Chris Ho, qu-, quick question. So, um, you have the application for contingency relief funds. Um, are you the only person that can approve that application? Or is there-, can you talk to me about the process of approval?

Ms. Castro: Um, so, we, as a board, applied to Council District 1 and District 2 for coun-, contingency relief funds. So, they have agreed to give us a total of \$5,000 in support of community classes, so, I'm not sure-...

Mr. Ho: Okay, so, I'm a little confused. Um, so within your job, is your job asking for it, but the board that you sit on outside of work is asking for it, and you're just asking if that's something that can happen given that you work for the County?

Ms. Castro: Correct.

Mr. Ho: Am I-...

Ms. Castro: Yes.

Mr. Ho: ... understanding that correctly?

Ms. Iyo: Yeah, so, our job has nothing to do with requesting the funds. It's the non-profit board that is requesting the funds.

Ms. Castro: And we are County employees and we just want to make sure that everything is above board.

Ms. Short: Scotty, please.

Mr. Paiva: Um, Scotty Paiva, Board Member. What you guys-, what you-, uh, job positions with the County? I didn't see that anywhere in the-...

Ms. Iyo: Uh, so, I am the Recreation Division Administrator.

Ms. Castro: And I'm a Clerk for the Recreation Division.

Mr. Paiva: And those two positions has nothing to do with the-...

Ms. Short: Does anyone else on the Board have questions for our petitioners? If not, I will entertain a motion for both 2025-04, as well as 2025-06. Anyone want to make a motion?

Ms. Valenzuela: Board Member Valenzuela, I see no conflict. Um, I make a motion by that, and I want to commend you, you know, outside of your job, taking care of people in your community, I think that's wonderful, you guys.

Ms. Short: Do I have a second to the motion to find that there's no conflict?

Mr. Paiva: Member Paiva, second.

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

Ms. Fukumitsu: Aye.

Mr. Paiva: Aye.

Ms. Valenzuela: Aye.

Ms. Short: Any opposition, please say nay. Member Ho, you have to vote.

Mr. Ho: Aye.

Ms. Short: Thank you. Hearing and seeing none, the motion passes. Thank you both very much for your work.

Ms. Iyo: Thank you.

Ms. Castro: Thank you.

**Motion and Vote: Board Member Valenzuela moved to find no conflict of interest for Petitions 2025-04 and 2025-06; Board Member Paiva seconded; All members voted aye; Motion Passes (12:18 p.m.)**

d. Petition 2025-05: Review of a Petition from a County Employee seeking clearance and guidance regarding potential conflict of interest.

Ms. Short: Okay, moving back in order-...

Ms. Iyo: I'm also on, uh-...

Ms. Wan: No, no, so you want number 5-...

Ms. Iyo: Yup.

Ms. Wan: ... because she needs to go.

Ms. Short: Oh, okay, perfect. That's what I thought.

Ms. Iyo: Sorry.

Ms. Short: No, you're fine. Petition 20-, that is kind of in order in somewhat, 2025-05, please state your name and the reason for your Petition.

Ms. Iyo: Sure. Lindsey Iyo, um, current position with the County, Recreation Division Administrator. Uh, this Petition is along the same lines as, uh, 04. Um, I also sit on the board of, uh, the Keaukaha School Foundation, um, and it, in that, uh-, on that board, uh, we also request for contingency relief funds, uh, from County Council, uh, in-, to support, to be able to support the pre-school program at Keaukaha Elementary School. So, seeking, uh, approval also for that.

Ms. Short: Do we have any questions for our petitioner?

Mr. Ho: Madame Chair, Chris Ho. Um, I would like to state for the record that as a Department of Education employee, um, in an educational officer position, um, I do, um, at times, deal with, um, many of our schools on the island, and I did want to state for the record that it has no bearance whatsoever on my ability to, um, fulfill the need-...

Ms. Short: To vote. Thank you. Recorded. Any questions for our petitioner? If not, I will entertain a motion at this time regarding Petition 2025-05. Would someone like to make a motion? Scotty, please.

Mr. Paiva: Member Paiva, move that I see no conflict in, um, number-...

Ms. Short: 2025-05.

Mr. Paiva: ... yes.

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

Ms. Valenzuela: Board Member Valenzuela, I second it.

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

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

Ms. Short: Any opposition, please say nay. Hearing and seeing none, thank you very much, the motion so passes. Thank you for your time and your service.

**Motion and Vote: Board Member Paiva moved to find no conflict of interest for Petition 2025-05; Board Member Valenzuela seconded; All members voted aye; Motion Passes (12:20 p.m.)**

- a. Petition 2025-01: Review of a Petition from a County Officer seeking clearance and guidance regarding potential conflict of interest.

Ms. Iyo: Thank you so much, and I just wanted to say thank you guys for serving on the Board. Uh, it's been, it's been really interesting coming and seeing what you guys do, and I give you guys credit. Thank you so much.

Mr. Paiva: Thank you for your patience.

Ms. Short: Thank you. We appreciate your recognition. Alright, backing up-, I know, I like her boss too. Okay, number 5, new business. Calling Petition 2025-01, the review of a Petition from a County Officer seeking clearance and guidance regarding a potential conflict of interest. Do we have any public testimony on this agenda item?

Ms. Wan: No, Chair, we do not.

Ms. Short: Is the petitioner present?

Ms. Wan: I believe by Zoom.

Mr. Inaba: I am.

Ms. Short: Okay, perfect. And let me make sure, um, I see here that you have requested a closed hearing before-...

Mr. Ho: Sorry, Madame Chair, but before we continue, can we see the person?

Ms. Short: Yeah. He's coming.

Mr. Inaba: Aloha.

Ms. Short: Aloha. I see here that you have, um, requested a closed hearing. Before we make the decision to hear this in an open or closed setting, would you mind, please, explaining to the Board why you have requested a closed hearing today?

Mr. Inaba: Uh, yes, just so we can have frank conversation. Um, this is maybe an item, not specific to me, but in general with Council Members, and maybe with even members of the administration. So, um, just want to make sure we can be really frank and, uh, share, you know, the details of some of the events that we have to attend, and, um, you know, get a, get a good solid opinion based on that discussion.

Ms. Wan: Um, Council Member Inaba, Deputy Corporation Counsel, Sylvia Wan. Uh, would-, does your Petition consider, uh, personal matters that may affect your privacy?

Mr. Inaba: No.

Ms. Wan: Okay.

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

Ms. Valenzuela: I make a me-, uh, Board Member Valenzuela. Um, I make motion to go into a closed session upon the request of Council Member Inaba.

Ms. Wan: So, um, I'll just note for the record that among the reasons that you can enter into closed session, um-, the most common is matters affecting confidentiality, or matters affecting personal privacy, is one, and generally, as an informal advisory opinion level, that's primarily what you're looking at. When you're looking at a complaint, it's going to be relating to the, um, you know, alleged misconduct relating to the employment of an individual. So, those are generally the two lines that you're allowed to do a closed

session. Otherwise, um, we wouldn't-, the Sunshine Law would prevent us from going into closed session.

Ms. Short: Yeah, I think I-...

Mr. Inaba: Okay, let's just stay open then. Sorry, I wasn't aware of, you know, the, um, qualifications to go in or out, so, I'm happy to have it in open session.

Ms. Wan: No worries, thank you.

Ms. Short: So, just to clarify, you're going to retract your request for a closed hearing, and you're okay with us proceeding within an open session?

Mr. Inaba: Yes.

Ms. Fukumitsu: Well, but, to me, I feel like there was a layer of maybe some concern for personal privacy confidentiality-...

Ms. Short: She asked him our Code-...

Ms. Fukumitsu: Oh, okay, but maybe he wasn't sure of what that really meant, or no.

Mr. Ho: Sorry, point of order-...

Mr. Inaba: I'm comfortable having it in open session. It's, it's okay.

Ms. Short: Yeah.

Mr. Ho: Um, point of order. Um, Kelly actually made a motion-...

Ms. Wan: Oh, it wasn't-...

Ms. Short: It wasn't seconded though.

Mr. Ho: It didn't get a chance to.

Ms. Fukumitsu: Oh, so sorry.

Ms. Short: Okay. Does someone want to second Kelly's motion?

Ms. Fukumitsu: Can we get a repeat?

Mr. Ho: It's more just for the record because it-, the motion was made and then clarification was provided, but then we just kept on going without referring back to the fact that a motion was actually stated.

Ms. Short: So, do we have a second to Kelly's motion?

Ms. Fukumitsu: I apologize, could I get a-, could we restate the motion?

Ms. Short: My understanding-...

Ms. Fukumitsu: I don't know what-...

Ms. Short: ... is the motion do-, fails because it doesn't meet Sunshine Law requirements, is what I just heard Corp. Counsel say.

Ms. Wan: Okay. So, just so we can keep it clear, Ms. Valenzuela, do you withdraw your motion?

Ms. Valenzuela: Board Member Valenzuela-...

Ms. Short: Wait, hit your mic.

Ms. Valenzuela: Board Member Valenzuela, I will withdraw my motion, with the understanding and explanation of the definition, from Corp. Counsel Sylvia Wan-...

Ms. Wan: Thank you.

Ms. Short: Thank you.

Ms. Valenzuela: ... in regards to what qualifies a closed session.

Ms. Short: Okay. Thank you. So, we are going to, no. We are going to proceed with Petition 2025-01 in an open setting. Thank you for that clarification. Um, Council Member, if you could please state your name and explain the reason for your Petition.

Mr. Inaba: Sure. Aloha, Holeka Goro Inaba. I serve as Chair of the Hawai'i County Council and I represent District 8, North Kona. Um, I have two Petitions today. This first one is in regards to attending certain events, um, mainly the one provided here in the Petition. Uh, the Kohala Coast Resort Association is a association of, basically, all of the resorts, starting at, uh, Four Seasons out to Mauna Kea, and they have a quarterly event where Council Members, members of the administration and other elected officials are invited. Uh, typically they provide us with updates of, uh, events and programs

that are happening across the resorts. Uh, they'll typically host it at one of the resorts re-, uh, alternating between them, um, and at these events, they do have food and alcohol, uh, available, for free to all those in attendance, uh, both elected officials and other community members as well. So, just wanted to get your folks mana'o on whether attending that event should result in us reporting, uh, gifts and, uh, there's no dollar amount, there's no ticket, um, per say, that we would otherwise be able to pay to attend the event, so just wanted to get an informal opinion, make sure that not just myself, but everyone else who attends these types of meetings, we can use this opinion and make sure we're following and doing what is right based on the Code of Ethics.

- Ms. Short: Thank you very much, Council Member. So, just for clarification for the Board, um, Council does have Petition 2025 and-, 01, and 2025-02, before us. Um, we'll make a decision, and we're hearing on 2025-01, and then we'll move to 2025-02. Does anyone have any questions for Council Member regarding 2025-01? Member Ho.
- Mr. Ho: Thank you, Madame Chair. Um, with this particular event, um, this one specifically since it's mentioned in here, um, is it by invitation only, or is it-, actually, I'll stop there. Is it by invitation only?
- Mr. Inaba: I would say yes.
- Mr. Ho: Are the invitations given to only, um, Council Members and those with subsequent influence within the community?
- Mr. Inaba: Typically, I don't know exactly who is invited. I, I just know that, typically, members of the Council from West Hawai'i, District 6, 7, 8, and 9, are traditionally invited. I've known on occasion a couple members from the Hilo side to attend, uh, and then members from our West Hawai'i delegation at the legislature. Um, but it isn't, you know, a publicly advertised event.
- Mr. Ho: Okay. And the only information that they're providing is just updates on what they have been up to, what they're doing, not necessarily lobbying for things that they would like to see?
- Mr. Inaba: No. There've been instances like, where we've had real property tax discussions ongoing, and those things have never been discussed at those events, even though they're happening simultaneously, perhaps, at the Council level.

Mr. Ho: Okay, and you did mention, um, multiple members of the Hawai'i County Council, um, potentially being, um, in attendance at the same time, um, begging the question of wondering if some conversations were had, um, during said event, that could potentially conflict with Sunshine Law of three or more, um-, I'm just stating-, I'm not-, it's not a question, I'm just, I don't know-...

Mr. Inaba: Yes, I would say, I mean-, there, there's always that concern when more than two of us attend an event, but that maybe would be outside the scope of the Petition and, and the role of the Board.

Mr. Ho: So, ultimately, what you're trying to find out is whether or not you need to put this on your gift, um, disclosure form? That's it?

Mr. Inaba: Yes. Yes.

Mr. Ho: Thank you.

Ms. Wan: You're in question phase.

Ms. Short: We're in questions, so you can ask him a question, we can discuss on a Board after there's a motion. Scotty, please.

Mr. Paiva: This is Member Paiva. Just, is it-, do you estimate it worth more than \$100?

Mr. Inaba: No.

Mr. Paiva: Thank you.

Ms. Short: So, just to clarify for our Board, um, to re-read from the Petition. He is being invited, in his official capacity as County Council, and our Code does state it's excluded from reporting requirements, anything that is available to, or distributed to the public generally without regard to the official status of the recipient. So, my question would be, you received the same things at that event, as far as food and drink, as every recipient present, is that correct?

Mr. Inaba: Yes.

Ms. Short: Okay.

Mr. Inaba: Uh, and if, if I may, Chair-...

Ms. Short: Please.

Mr. Inaba: ... I can just share what the e-mail invitation stated, at least for the last event in November. Um, it said this is our annual gathering to thank outgoing elected officials, welcome new officials, and share some of the great stories from our member properties. It's an opportunity to network, talk story, and build new relationships. We typically have 35 to 50 attendees from our board, County government, State government, the business community and key non-profit agencies.

Ms. Short: Thank you very much for that clarification. Do we have any more questions on 2025-01 at this time? If not, I will entertain a motion. Would someone like to make a motion in regards to Petition 2025-01?

Ms. Valenzuela: I make a motion-, Board Member Valenzuela, in regards to Petition 2025-01. And can I do 2 as well, since we're hearing both of them at the sa-...

Ms. Wan: No-...

Ms. Short: We're going to have to do it next.

Ms. Valenzuela: Okay. One, I don't see a conflict.

Ms. Short: So, not seeing a conflict would mean he's not required to report it, Corporation Counsel?

Ms. Wan: That's correct.

Ms. Valenzuela: I, that he would not be, he or any-, excuse me, any Council Member be having to report it as a gift-...

Ms. Short: I don't think we can say any-...

Ms. Wan: No, you can, you can say that. So, basically, you're saying you don't-, it does not appear to be a violation of the Code of Ethics, and that a re-, to report it as a gift would not otherwise be required, is that what you're saying?

Ms. Valenzuela: Yes.

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

Ms. Fukumitsu: Vice Chair Fukumitsu, second.

Ms. Short: At this time, we'll begin discussion, because I feel like there's going to be some.

Ms. Wan: Okay, Kelly can you-...

Ms. Valenzuela: Okay.

Ms. Wan: ... yeah-...

Ms. Short: Please.

Ms. Wan: ... can you start it?

Ms. Valenzuela: Yup. Um, first and foremost, um, thank you, Council Inaba, for attending these events. Um, as a business person myself, at different events, I believe that, um, our Council Members, our legislators-, as a constituent, not even as a Board Member, I want to see my officials there, and I, I, I do see you guys there, and I do see, um, the public being able to discuss and speak with you. You're still working. This isn't-, your job is not a 8-5 job. A lot of people don't know that-, that you guys are at many events-, I'm sure that you don't even want to attend. So, in that case, I do feel that it's a working time, and it's a time that the County should be supporting, um, fiscally, at these different events for different members, um, and, it is a plus for constituents and for the community that we see our elected officials at events so that they're privy to things that are going on within in their districts, within their community, and, um, speaking and talking to a variety of people. Like, one of them-, you know, we ta-, uh, you had mentioned about the Sayre Foundation who provides, you know, ambulances, and ladders, and all kinds of stuff, it's just, um, a good thing. Thank you.

Ms. Short: Any further discussion on the motion? Member Ho.

Mr. Ho: So, I'm having a bit of a hard time with this one, um, in that in looking into section 2-91, um, and please correct me if I'm wrong, DCC Wan, I don't see an actual definition of the word gift. Like, what actually constitutes an actual gift.

Ms. Wan: Um, Deputy Corporation Counsel, Sylvia Wan. Actually, gifts are defined, it's a fat paragraph in the Code right before. So, under 2-91.4, it's entitled gifts. So, that entire paragraph, which I'll read for entire Board, says no officer or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or

promise or in any other form, under circumstances in which it could be reasonably inferred that the gift is intended to influence the officer or employee in the performance of the officer's or employee's official duties or as intended as a reward for any official action of the officer or employee's part. That's the end of it. At this point, my understanding is out-, has-, as it's been described, um, the receipt of the food and drink is not being seen as, um, something to influence, uh, the officers performance, or otherwise as a reward. That being said, irrespective of those things, um, 2-91.5, there's reporting of gifts, and there are, there's an entire section about when you need to report and the exclusions of that. So, I think what Inaba's asking is does this fit under, um, an exclusion, which is under subsection d of Hawai'i County Code 2-91.5, even if it has, like, the vague appearance of maybe influencing the officer.

Ms. Valenzuela: Councilman Valenzuela, just to be really clear, I don't see this as a gift. Attending an event for the public on behalf of your constituents by an invite is a very different thing versus an omiyage, or a gift.

Ms. Short: And I also will point out for the record, um, Chair Inaba did say that he was not served anything at the event that was not served to everyone else in attendance.

Mr. Ho: Uh, Chris Ho. So, I am on the complete opposite side of the two, um, in that with respect to section 2-91.5, um, (d)(5), anything available or distributed to the public generally without regard to official status of the recipient, it wasn't offered to the general public. The event was an invitation only event which would not necessarily equal the public. I didn't get an invitation. I'm a member of the public. I would've loved to gone. That sounded like a great, great thing. Um, but also in the word choice on the invitation itself, as a thank you for whatever it is that they did, to me, and is, it's just me, that, that phrase of thank you almost equates to a reward. So, it's a thank you so much for all that you have done in your capacity as whatever official you are, whether it's Council Member, um, State Representative, or whatever. Um, that's what I saw, was, it does-, for me, it does fit, um, the realm of a gift in that it, um, for me, perceived as a reward, thank you, um, here's your personal invitation to our location that we're not giving to anybody else. While yes, you may receive the same food and drink as everyone else there, the doors are probably closed to the general population.

Ms. Valenzuela: Board Member Valenzuela, so that's not true. So, the personal invitation went to Council Members, the public can attend these events, the chamber event, and or the Sayre event, you purchase a ticket. They're invited, personally invited, because they're part of the community of the event. The public can also attend the event.

Ms. Short: But would the public have to pay for a ticket?

Ms. Valenzuela: The public would have to pay for a ticket-...

Ms. Short: So, Council Member-...

Ms. Valenzuela: ... so, what I'm saying is that he's working, our Council Member is working during that time. They're not socializing, they're-, they're socializing, but in their capacity as an elected official. It's like when a fire chief travels to Washington D.C., and it's paid, or a official flies to Honolulu for the opening of the session, and it's paid for. It's-, the duty of the elected official to accept events that are part of their community in business and or regular constituents, and the people that pay to go to the event, I want to hear what they have to say in regards to our community issues, and those things are discussed during that time. So, I see it, in my opinion, Kelly Valenzuela, Board Member, this is a working event for them.

Ms. Short: I, I believe, um, the discussion we're having is simply if this is considered a gift, then we would just need him to report it. Am I correct, Corporation Counsel?

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. Um, yes. If the, if the Board determines that this appears to be a gift, then-, and not subject to an exclusion, then, yes, they would-, the-, whoever it is that received it would have to report it.

Ms. Fukumitsu: Point of cla-, I have a question. So, but going back to, um, what Board Member Paiva said, right, the, the amount would be \$100, that we would have to report a gift. If it's over \$100.

Ms. Wan: If it's over \$100.

Ms. Fukumitsu: So, my question then, is how much would a ticket to the function be?

Ms. Wan: So, I think that question might be towards Council Member-...

Ms. Fukumitsu: Yes, Counc-, yes.

Mr. Inaba: Okay, and then maybe I can take this opportunity, we can just try to just keep the two Petitions separate. So, this one is specific for the Kohala Coast Resort Association, those types of receptions. It's not-, it's by invitation only. I don't know what the qualifications are for invitation. There is no ticket for this specific event. Um-...

Ms. Fukumitsu: Okay, thank you, that was my question. Because if it was a paid for event, right, and we get a free ticket, then I would be inclined to say, for me, I would disclose, to be transparent, but, there's-, it's free.

Mr. Paiva: Member Paiva, if it was over \$100.

Ms. Short: Member Ho.

Mr. Ho: Uh, Chris Ho. So, I-, even though it is an invitation only, um, and not open to the public, um, it still has a value to, um, the quote unquote ticket, even though there really isn't a ticket-, it-, the invitation itself. Um, but it's still a thank you, um, based on the wording, um, that, um, Council Member Inaba had said from the invitation itself, so that's where I'm a little bit stuck. And I'm only just saying how I feel.

Ms. Fukumitsu: Well, I appreciate that because we just had a whole conversation today about perception-...

Ms. Short: Yes.

Ms. Fukumitsu: ... right-...

Ms. Short: Yes.

Ms. Fukumitsu: ... and transparency and-...

Ms. Short: Yes.

Ms. Fukumitsu: ... if it feel-, like, you know, our roles and responsibilities as Board Members and Council Members, so if it sort of feels like it, we could just-, would that be bad practice though to just report it because-...

Ms. Short: How do-, I guess, Corporation Counsel, that would be our question is, um, do we assign a value to the ticket, to the food, to the drink for reporting-, what, what does that look like, because I can obviously see where Member Ho is going with this where it is an invitation that wasn't extended to the general public, the general

public couldn't buy a ticket, um, how-, and it, and it was a thank you. So, I guess, Corp. Counsel, what would be, as a Board, what are our options?

Mr. Inaba: Uh, Chair, sorry, real quick, if I could clarify?

Ms. Short: Please.

Mr. Inaba: I just want to restate what the e-mail said, and it was a thank you to out-going members, meaning those who were either leaving office or-...

Ms. Short: And then what, and what was it to new members? A welcome, what was the wording you used, the verbiage?

Mr. Inaba: Welcome our new leaders.

Ms. Short: So, a thank you to our outgoing leaders and welcome to our new leaders?

Mr. Inaba: Yes.

Ms. Short: So, it was a welcome gift.

Ms. Valenzuela: Board Member Valenzuela, just to clarify, sorry. I thought, um-, Council Member Inaba, I'm sorry, I thought it was the chamber event, but now I know what you're talking about. Sorry, I apologize.

Ms. Short: Thank you, Member. So, I guess, I guess that leads me back to the question I had just asked, um, Corporation Counsel. If this Board does choose to find that we view this as a gift, what is our request of Chair Inaba, or what, what can we do-, what does, what does that look like, I, right, I mean-...

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. So, that is firmly a question for the Board to decide as you are tasked with interpreting the Code of Ethics-...

Ms. Short: Okay.

Ms. Wan: ... um, the only thing I can state back to you is, literally, what the section of the Code states, so, it is your struggle to do that. Um, that being, that being said, I'm just going to give you a heads up. I understand some members have some time constraints today and we need to end this meeting at 1 p.m. You are 15 'til.

Mr. Ho: Madame Chair, I'd also like to reference, uh, section 2-91.5, letter a, number 1, speaking to what Scotty had, um-, continuously stated with \$100-...

Ms. Short: Yes.

Mr. Ho: ... um, it says in that last, um, section, whether the gift is in the form of money, service-...

Ms. Short: Yeah.

Mr. Ho: ... goods-...

Ms. Short: Yeah.

Mr. Ho: ... or in any other form.

Ms. Short: Yes.

Mr. Ho: So, speaking to possible best practice, when in doubt, just report it out. Like, there's no harm in putting it down there. Um, there will be more harm in not, and then having a potential ethic complaint-...

Ms. Short: Yes.

Mr. Ho: ... being filed by someone.

Mr. Short: So, because this is a request for an informal advisory opinion and not-, we're not looking whether or not there's been a violation, um, I'm hearing the discussion leading towards we as a Board-...

Ms. Wan: Well, wha-, no-...

Ms. Short: ... or someone could make a motion-...

Ms. Wan: ... we're already hearing a motion, so before you continue that thought, Chair, I just want to remind the Board of the motion presently on the floor-...

Ms. Short: Yes.

Ms. Wan: ... which is to find that, um, there is not a requirement to report this as a gift.

Ms. Short: That is presently the motion on the floor-...

Ms. Chair: So, let's vote on that motion. I think that would make the most sense and that's where we're going. Um, the motion on the floor, as it stands, is to find that there is no requirement to report this as a gift. All in favor, please say aye.

Mr. Paiva: Aye.

Ms. Valenzuela: Aye.

Ms. Short: Any opposition, please say nay.

Mr. Ho: Nay.

Ms. Short: Nay.

Ms. Fukumitsu: Nay.

Ms. Short: So, the motion fails, 3 to 2, correct?

Ms. Wan: There was 2 in favor, and 3 against, so it fails.

**Motion and Vote: Board Member Valenzuela moved to find that the item listed in Petition 2025-01 is not required to be reported as a gift; Vice Chair Fukumitsu seconded; Two members voted aye; Three members voted nay; Motion Fails (12:48 p.m.)**

Ms. Short: So, at this time we will entertain a new motion regarding Petition number 2025-01. Would someone like to make that motion? I don't believe I can as Chair.

Mr. Ho: Chris Ho, move to, um, find that the item listed in the petition, um, is re-, recommended, recommended to be disclosed on a gift disclosure. Do I need to cite the section?

Ms. Wan: Do you, um-, because you kept mentioning it in your discussion, if it's worth more than \$100-...

Mr. Ho: If it's worth more than \$100, um, in the form of money, service, goods, or any other form.

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

Ms. Fukumitsu: Vice Chair Fukumitsu, second.

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

Ms. Fukumitsu: Aye.

Mr. Ho: Aye.

Mr. Paiva: Aye.

Ms. Short: Any opposition, please say nay.

Ms. Valenzuela: Nay.

Ms. Short: The motion passes, 4 to 1.

**Motion and Vote: Board Member Ho moved to find that the item listed in Petition 2025-01 is required to be reported as a gift; Vice Chair Fukumitsu seconded; Four members voted aye; One member voted nay; Motion Passes (12:49 p.m.)**

b. Petition 2025-02: Review of a Petition from a County Officer seeking clearance and guidance regarding potential conflict of interest.

Ms. Short: Thank you very much, Chair Inaba. We will move on to your next Petition, 2025-02. If you could please give us a little background and explanation regarding this Petition.

Mr. Inaba: Sure. This one is kind of similar to the last Petition. Um, we also have to attend-, now, now this is the events that are open to the public for a fee, uh, via a ticket. Um, one of the examples-, the Chamber of Commerce has an annual luncheon on the Kohala coast, um, where we're invited to attend. Um, in that case, we have to pay, so, for that question it's whether we are able to use our district funds to pay for that since we're attending in our official capacity. Uh, and then the second part to this is, there are other events like the Sayre Memorial Foundation Annual Gala or the Friends of First Responders dinner happening next Thursday in Hilo where we are invited to attend for free, um, and others have to pay, so, if those should be reported or if we should con-, also use our County funds to just pay for that since we're attending in our official capacities.

Ms. Short: Do we have any questions for Chair Inaba regarding Petition 2025-02? Member Ho.

Mr. Ho: Um, Chris Ho. So, Chair Inaba, just to clarify, um, so that I can understand, with this particular one, um, are you asking for guidance on a specific event or a type of event?

Mr. Inaba: A type of event.

Ms. Wan: Um, Deputy Corporation Counsel, Sylvia Wan. So, I'm just going to note for the record. Um, the Petition that's present before the Board right now, um, cites Hawai'i County Code, section 2-92 and 2-97, which is not within the Code of Ethics. That's, that's under Article 16, which is, um, specifically related to travel expenses, travel related expenses, um, for employees. And so, correct me if I'm wrong, Council Member Inaba, what you're looking for really is guidance from the Board as to fair treatment in utilizing these sections for, for these particular kinds of events? Um, I'll read fair treatment if you'd like, because that seems to be where your question is heading. So, what I was specifically contemplating was section 2-83(b), no officer or employee shall use or attempt to use the officer or employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment for oneself or others, including but not limited to, and it provides a whole series of examples. So, is the question, um, whether or not you can use County funds to pay for the travel expenses relating to these events as-, including, I believe admission? When you're-...

Mr. Inaba: Yes.

Ms. Wan: ... attending in your official capacity?

Mr. Inaba: Yes.

Ms. Short: Any questions for Chair Inaba? I will entertain a motion regarding Petition 2025-02.

Ms. Valenzuela: I make a motion-, Board Member Valenzuela, I see no ethical violation with, um, elected officials under the County Council, which is what, uh, Council Member Inaba's asking, in regards to be, um, paid for by County funds to attend functions, community functions, such as-, he's ask-, he mentioned, in particular, the Sayre Foundation and the Chamber, um, luncheon where they take part of sometimes-, the Governor is there, the Mayor is there, they give reports on what's going on with our County and our State, other times it's business things, and I make a motion that is-, there is no violation, that the County should compensate them.

Mr. Ho: Can, sorry, can you just repeat that because it, the way that it was worded, it sounded as though you found none as long as they're compensated-, I got confused, I'm sorry.

Ms. Valenzuela: His, his request, um, on his Petition is that, um, let me just look at that really quick, sorry.

Ms. Short: To request an informal advisory opinion and clarity as to whether or not we may use County funds to pay for attendance in my official capacity as Chair and Council Member to events such as the Kona Kohala Chamber of Commerce Annual Luncheon and Daniel R. Sa-, I'm not going-, Memorial Foundation Annual Gala.

Ms. Valenzuela: So, Board Member, um, Kelly Valenzuela, um, I see no problem, or no violation-...

Ms. Short: Motion.

Ms. Valenzuela: ... and I'm making a motion, um, \*inaudible\* that our elected officials, in their capacity attending these events, may be able to use County funds as the-...

Ms. Wan: To pay for their attendance.

Ms. Valenzuela: ... to pay for their attendance in these events.

Mr. Paiva: Member Paiva, second.

Ms. Short: Discussion to be had. Go for it.

Mr. Ho: Chris Ho. Um, I, sorry, I have a hard time with this, however, I'm fine moving it forward and allowing the chips to fall where they may if someone out there finds as though there may be a violation, that is their right to file whatever petition or claim that they actually have with whatever things that they, they have, but I do see the value, um, in doing this, and I feel like by going, going the opposite direction, we're telling them how they would be able to spend the money and do their job, and that's not my job. My job's not here to tell the Council Member I think you need to do it this way because that's what you should do for your job. I don't-, that, that is where I went with all of this.

Mr. Paiva: Member Paiva, I don't think he's asking, he's-, on how to spend his monies. He's asking if it's, if we think it's ethical for him to get reimbursed by the County to attend functions in his official capacity.

Ms. Fukumitsu: Yeah, and my question would be, is there any precedent that says that you cannot use, um, County funds to expense these types of events?

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. I think the reason why this question is coming before the Board is because there isn't any formal precedent as to this specific question.

Ms. Fukumitsu: Okay, so there's nothing that would pre-, prohibit someone for submitting for reimbursement, like, you know, for the Council Members, that they would be told no-, where'd-, this has never been done before, so I, I was just wondering-...

Ms. Wan: Well, if you look at the Statutes that he's referring to-...

Ms. Fukumitsu: Yeah, I don't have-...

Ms. Wan: ... as far as the travel-, um, so, I'll just note that I did provide the additional-, oh, I didn't provide the additional Statutes, I'm sorry. So, there is-, he cites, um, Hawai'i County Code 2-92, which states that all officers and employees of the County, including members of the board's committee's and commissions shall be entitled to travel and other necessary expenses, connected to the performance of their official duties and in accordance with the provision of this section and subject to procedures prescribed by the Director of Finance and approved by the Mayor. As to approvals for allowable expenses, my understanding is for the County Council, it's the Chair that would approve for those travel expenses, is that correct, Chair Inaba?

Mr. Inaba: Yes.

Ms. Wan: I'm sorry, I mean Council Member, also Council Chair Inaba?

Mr. Inaba: Yes, \*inaudible.\*

Ms. Wan: Um, so, and, but you can also designate someone to approve your own travel expenses, is that correct?

Mr. Inaba: I believe the County Clerk, um, will review my travel authorizations, even though they, they serve at our pleasure, but, yes, he does review my, my requests.

Ms. Wan: Okay. And, and that's already written within the Code itself under, um, Article 16, to allow for that balance.

Mr. Ho: Madame Chair, if I may?

Ms. Short: Please.

Mr. Ho: Uh, Mr. Ho, or, Chris Ho, Board Member, sorry, Mr. Ho. Um, I keep hearing the term reimbursement. Um, in, in your actual Petition, it's, um, whether or not they may use County funds, there's a-, to me, there's a difference between using County funds and asking to get reimbursed, or given back money for, out of County funds for funds that you have, um, utilized. Usually, there is clear guidance on what is allowable when it comes to reimbursement. There's probably also guidance on what a Council Member may utilize their County funds for, so I'm just trying to understand if-, are we thinking that this is a reimbursement question or a-, that's where I'm a little confused.

Ms. Wan: Uh, Deputy Corporation Counsel, Sylvia Wan. I'm just going to provide a little bit of perspective for the Board. When it comes to these types of travel expenses, um, sometimes the approvals will become-, come prior to the traveler, um, expending any monies, and sometimes the approvals will come after monies have already been expended. So, there are some instances where it's legitimately a reimbursement. Other times where it's the-, the supervisor has already agreed and so County funds are going to be expended at the front, so I really would rather the Board not get tied up on that verbiage, and more about is it fair treatment for Council Members to use these funds for travel expenses in their official capacities.

Mr. Inaba: Chair, if I may?

Ms. Short: Please.

Mr. Inaba: I just want to clarify because when we go to these events, ultimately I want to know, should we-, if they're giving us a free ticket, should we just take the free ticket and report it, or should we

pay since we have a fund to pay for attendance at these types of things if you folks are saying it's okay?

- Ms. Short: Please, Coun-, Corp. Counsel.
- Ms. Wan: Uh, Deputy Corporation Counsel, Sylvia Wan. I think that's a slightly different question. So, I, um, I, I completely hear you, Council Member Inaba. Um, because the question on the Board, before the Board right now is, is it okay for you to use County funds, I think they should stick to that question, because whether or not those fees are waved is a separate gift related question.
- Mr. Inaba: Okay, understood.
- Ms. Valenzuela: Board member Valenzuela. So, I understand what you're saying, um, Councilman Inaba. Um, if they were to report every single thing though, can you imagine the Mayor's report every day? Because these are the same, these are the same type of events-...
- Ms. Wan: I'm going, I'm going to say that that's outside of the scope of this Petition at this point, so I'm going to reel us back in.
- Ms. Short: We're discussing, um, again-...
- Ms. Valenzuela: Use of funds, or report.
- Ms. Short: It, it, it says right here-...
- Ms. Wan: No, no, no, just-...
- Ms. Short: ... should be an expense to be paid with County funds.
- Ms. Valenzuela: Right.
- Ms. Wan: Just use of funds.
- Ms. Valenzuela: Right.
- Ms. Short: The use of County funds-...
- Ms. Valenzuela: I say yes.
- Ms. Short: ... to attend these events in his official capacity as our Council.

Mr. Ho: Chris Ho, point of clarification. Um, within our rules, with regards to a petition, um, with number 2 being inaccurately filled out, um, what is our appropriate procedure that we need to follow?

Ms. Wan: Deputy Corporation Counsel, Sylvia Wan. At this point, to expedite things, this is why at the top of the Petition, I asked Council Member Inaba to clarify that he's actually seeking for an opinion, under Hawai'i County Code 2-83(b), under fair treatment, rather than the stated Codes within the amendment. So, if the Board is willing to accept that as an oral amendment of his Petition, I would behoove the Board to consider that, especially since right now, you have a motion on the floor-...

Ms. Short: Yeah.

Ms. Wan: ... stating there is no violation.

Ms. Short: So, just for clarification, there was oral record of the sections not being 2.92 and 2.97, but actually being 2.83(b)?

Ms. Wan: Correct.

Mr. Ho: Is that something that we as Board would need to approve or just that it's stated on the record?

Ms. Wan: That it's stated on the record, and it's reflected in your findings.

Mr. Ho: Thank you.

Ms. Short: Any further discussion to be had? If not, I'm going to call for the vote. All in favor, please say aye. Aye.

Ms. Fukumitsu: Aye.

Mr. Paiva: Aye.

Ms. Valenzuela: Aye.

Mr. Ho: Sorry, can we restate the motion, because I have no idea what it was.

Ms. Wan: Do you remember, Kelly?

Ms. Valenzuela: Board Member Kelly Valenzuela, I make a motion that I don't see a violation and I believe they are able to-, Council Inaba and other Council Members, use the County funds. I don't see any violation-  
...

Ms. Wan: To pay for their expenses related to-...

Ms. Valenzuela: To pay for their expenses related-...

Ms. Wan: ... to their attendance-...

Ms. Valenzuela: ... to their attendance-...

Ms. Wan: ... in their official capacity-...

Ms. Valenzuela: ... in their official capacity as Council Members.

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

Ms. Wan: No, you already-, it's already seconded-...

Ms. Short: Oh, it's already seconded-...

Ms. Wan: ... this is, you're calling-...

Ms. Short: ... we're just restating it. So, now we're calling for the vote on that motion that has been seconded, and we've had discussion on. All in favor, please say aye. Aye.

Ms. Fukumitsu: Aye.

Mr. Paiva: Aye.

Ms. Valenzuela: Aye.

Ms. Short: Any opposition, please say nay. Are you going to vote?

Mr. Ho: Aye.

Ms. Short: The vote-, motion passes unanimously. Thank you very much for your time, Council Member Inaba.

**Motion and Vote: Board Member Valenzuela moved to find no violation for the Petitioner to use County funds to pay for their expenses to attend events in their capacity as a Council Member; Board Member Paiva seconded; All members voted aye; Motion Passes (01:04 p.m.)**

**6. EXECUTIVE SESSION (01:04 p.m.)**

Ms. Short: Um, at this time, it's 1:04 p.m.-...

Mr. Paiva: Yes, thank you, Councilman.

Ms. Short: Yes, thank you for your time. Um, at this time, 1:04 p.m., I'm going to call for a quick recess, and I will note that I have to leave at this time, so, Vice Chair Fukumitsu will, um, resume this meeting with item agenda number 6.

Ms. Valenzuela: Board Member Valenzuela, I have to leave as well.

Ms. Short: So, we-, I'm actually-, we are out of quorum, so, um, we will table-, can I get a motion to table items 6 and 7, item number 6, for our next meeting, um, and I will move on to announcements and adjournments. So, motion to table, um, item number 6 to our next Board of Ethics meeting.

Ms. Fukumitsu: Vice Chair Fukumitsu, I move to, um, table or move item number 6 to the Board of Ethics, the next Board of Ethics meeting on, do we need to state a date? I don't know what-...

Ms. Wan: Well, you can-...

Ms. Short: Thursday, March 20, 2025.

Ms. Fukumitsu: ... okay, on the next Board of Ethics Meeting. No.

Ms. Wan: Just say the next date because we're going to get there.

Ms. Short: Okay.

Ms. Fukumitsu: Okay.

Ms. Short: To the next date.

Ms. Fukumitsu: To the next date.

Ms. Short: Can I get a second to the motion to table item number 6 to our next meeting?

Ms. Valenzuela: Board Member Valenzuela, I second it.

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 Fukumitsu moved to continue Agenda Item number 6 to the next Board of Ethics Meeting; Board Member Valenzuela seconded; All members voted aye; Motion Passes (01:06 p.m.)**

## **7. ANNOUNCEMENTS (01:06 p.m.)**

Ms. Short: I will move along to announcements, item number 7. Moving on-, uh, the next monthly Board of Ethics meeting is scheduled for Thursday, March 20, 2025, at 10:00 a.m., here at the Hawai'i County Building, Council Chambers, 25 Aupuni Street, Hilo, Hawai'i, or Friday, March 25, at the West Hawai'i Civic Center. Can I get a motion from a Board member to elect which date and corresponding location to hold our March meeting? Hilo or Kona?

Mr. Paiva: I move that we meet in Kona.

Ms. Short: Of course you do, Scotty.

Ms. Valenzuela: Board Member Valenzuela, I second it.

Ms. Short: Any discussion to be had? I'll have to attend via Zoom.

Mr. Ho: Just for the record, I will not be here. I will be on O'ahu at the State Capitol.

Ms. Short: Any further discussion to be had?

Ms. Fukumitsu: I know we had talked about this, like, if there are member-, if there are petitioners from Hilo-...

Ms. Short: Oh, wait, I will go on record. Um, if we move it to Kona, it will be a Friday, will not be able to attend, and it sounds like Vice Ch-, er,

Chris Ho won't be able to either, so, which point we will not have quorum.

Ms. Wan: Uh, so, Deputy Corporation Counsel, Sylvia Wan. There are multiple things to consider. One, if you would have quorum if you move it to Kona. Two, the fact that-, the reason why we have these option dates was so that if there were petitioners that would prefer to appear in Kona, you have that option. Presently, you have no petitioners who would want to appear from Kona.

Ms. Short: So, can I make a motion that we hold our next monthly-...

Ms. Wan: Well, no-...

Mr. Paiva: We already have a motion.

Ms. Short: Oh, okay.

Ms. Wan: You have a motion, you got to vote.

Ms. Short: Let's vote on the motion. All in favor, say aye.

Mr. Paiva: Aye.

Ms. Valenzuela: Aye.

Ms. Short: Any opposition, please say nay. Nay.

Ms. Fukumitsu: Nay.

Mr. Ho: I'm not in opposition. I abstain. I'm not going to be here so it doesn't matter. I'm going to throw out my-...

Ms. Wan: Okay, so, at this time, I'm just going to call what the vote was. It was two in favor? I'm sorry, Kelly, did you vote?

Ms. Short: She voted yes-...

Ms. Wan: Okay.

Ms. Short: ... to in Kona.

Ms. Wan: Two in favor, two against, one abstain, the motion fails-...

Ms. Short: Okay.

Ms. Wan: ... for lack of a quorum, uh, for lack of a majority. You know what I mean. Majority of the entire membership.

**Motion and Vote: Board Member Paiva moved to have the next Board of Ethics meeting be held in Kona; Board Member Valenzuela seconded; Two members voted aye; Two members voted nay; One member abstained; Motion Fails (01:06 p.m.)**

Ms. Wan: So, you can do a second motion.

Ms. Short: So, I'm going to motion that our next monthly Board of Ethics meeting is held Thursday, March 20, 2025, here at the Hawai'i County Building in Hilo. Can I get a second to that motion?

Ms. Fukumitsu: Vice Chair 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.

Ms. Fukumitsu: Aye.

Ms. Valenzuela: Aye.

Ms. Short: Any opposition, please say nay.

Mr. Paiva: Nay.

Mr. Ho: I abstain.

Ms. Short: The motion passes 3 to 1.

**Motion and Vote: Chair Short moved to have the next monthly Board of Ethics meeting be held in Hilo; Vice Chair Fukumitsu seconded; Three members voted aye; One member voted nay; One member abstained; Motion Passes (01:08 p.m.)**

## **8. ADJOURNMENT (12:52 p.m.)**

Ms. Wan: It's going to pass 3 to 1 because you, you only can do a majority in this instance, and it's administrative.

Ms. Short: Okay, so, our next monthly Board of Ethics meeting will be held Thursday, March 20, 2025, at 10:00 a.m., here at the Hawai'i County Building in Hilo. At this time, um, I will move on to item number 8, our adjournment at 1:09 p.m. Can I get a motion to adjourn our meet-...

Mr. Ho: Move to adjourn.

Ms. Short: Can I get a second-...

Mr. Paiva: Second.

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

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

Ms. Short: Motion passes. Thank you everyone.

**Motion and Vote: Board Member Ho moved to adjourn the meeting; Board Member Paiva seconded; All members voted aye; Motion Passes (01:09 p.m.)**

Respectfully submitted:

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Noah Agustin, Secretary Assistant