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Mark Hubbard
Vice-Chair

Warren Perry
Secretary



Members:
Kathy Clark
Calvin Murashige
Brad Nagano
Paul Weil

COUNTY OF KAUAI BOARD OF ETHICS
August 13, 2012

TO: Board of Ethics Members

FROM: Barbara Davis, Support Staff

SUBJECT: August 10, 2012 BOARD OF ETHICS MEETING RECAP

This is to provide a recap of the actions taken by the Board of Ethics at its August 10, 2012 meeting and any follow-up that was requested.

APPROVAL OF MINUTES (Approved as circulated)

Regular Open Session Minutes of July 13, 2012

REQUEST FOR ADVISORY OPINION

RAO 12-005

Letter dated 7/25/12 from Councilmember KipuKai Kualī'i requesting an advisory opinion from the Board of Ethics as to whether he has a conflict of interest if he participates in County Council agenda items as it relates to the YWCA of which he is an employee as well as to recent and future budget matters involving the Office of the Prosecuting Attorney's VOCA program, and the Office of Economic Development of which both fund some level of the YWCA's programs. **(By a vote of 7:0, the Board found that KipuKai Kualī'i does have a conflict participating in and/or voting on County Council agenda items as it relates to the VOCA program and OED programs in conjunction with the YWCA; the County Attorney to provide an Advisory Opinion)**

a. Letter of testimony dated 7/31/12 from Council Vice-Chair Yukimura on whether conflicts of interest existed in actions taken by an officer(s) or employee(s) of the County.

RAO 12-006

Letter dated 7/24/12 from Mark B.L. Marshall, administrator with the Kaua'i Civil Defense Agency, requesting an advisory opinion as to whether he has a conflict of interest if he teaches courses for the University of Hawai'i's National Disaster Preparedness Training Center for the County of Kaua'i professionally. **(By a vote of 7:0, the Board found that Mark B.L. Marshall does not have a conflict of interest in teaching U.H. courses to County of Kaua'i employees as long as he does it on his vacation time; the County Attorney to provide an Advisory Opinion)**

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BUSINESS

BOE 2012-15

Memorandum dated 7/16/12 from Council Chair Jay Furfaro requesting the Board of Ethics to conduct an investigation of the P.O.H.A.K.U. Program (County Council Open Session Minutes and other resource information on file with the Office of Boards & Commissions) **(Received for the record)**

Testimony from Walter S. Lewis dated August 1, August 8 and August 10, 2012 **(Received for the record)**

DISCLOSURES for review and examination by the Board of Ethics (Deferred to 9/14/12 meeting)

- a. Jo Shimamoto (Salary Commission)
- b. Kai Lawrence (Deputy Prosecuting Attorney)
- c. Charles Foster (Deputy Prosecuting Attorney)

EXECUTIVE SESSION

ES-14: Executive Session Minutes of May 11, 2012 **(Approved as circulated)**

ES-24: Executive Session Minutes of July 13, 2012 **(Approved as circulated)**

ES-25: Consultation with the Board's legal counsel on issues pertaining to the Board's and the County's powers, duties, privileges, immunities, and/or liabilities as they may relate to a Declaratory Order under the Board's Rule 10 for the resolution of complaints filed with the Board **(Deferred to 9/14/12 meeting; County Attorney to provide an opinion on the Declaratory Order)**

ES-2: BOE 11-003 Letter dated 11/25/11 requesting the Board of Ethics to initiate an investigation into an allegation that an employee or officer of the County has improperly used County resources

- a. Resolution 2011-1, adopted January 13, 2012, defining the scope for an investigation into an allegation that an employee or officer of the County has improperly used county resources **(ongoing)**

ES-3: BOE 11-004 Complaint dated 11/28/11 alleging that an employee or officer of the County has improperly disclosed information and used their position to secure a benefit, privilege or exemption for themselves or others

- a. Resolution 2011-2, adopted January 13, 2012, defining the scope for an investigation into a complaint alleging that an employee or officer of the County has improperly disclosed information and used their position to secure a benefit, privilege or exemption for themselves or others **(ongoing)**

- ES-7: BOE 12-001** Complaint dated 1/12/12 alleging that an employee or officer of the County is operating a private business in conflict with their position with the County of Kaua'i
- a. Resolution 2012-3, adopted March 9, 2012, defining the scope for an investigation into a complaint alleging that an employee or officer of the County operating a private business in conflict with their position with the County of Kaua'i **(ongoing)**
 - b. Motion for Production of Complaint and Resolution No. 2012-3, to Quash Subpoena Duces Tecum issued June 27, 2012 and/or for Rejection or Dismissal of Complaint **(Deny motion to Quash)**
- ES-8: BOE 12-002** Letter dated 2/1/12 requesting the Board of Ethics to initiate an investigation into an allegation that an employee or officer of the County has improperly used County property for other than public activity or purpose
- a. Resolution 2012-1 amending Resolution 2011-1, adopted March 9, 2012, defining the scope for an investigation into an allegation that an employee or officer of the County has improperly used county resources and or County property for other than public activity or purpose **(ongoing)**
- ES-15: RAO 12-002** Request for an opinion from the Board of Ethics dated 5/3/12 as to whether conflicts of interest exist in actions taken by an officer(s) or employee(s) of the County. **(Request dismissed)**
- a. Written testimony dated 6/8/12 as presented to the Board of Ethics at its June 8, 2012 meeting
- ES-16: BOE 12-004** Complaint dated 5/10/12 alleging that an employee or officer of the County is improperly using County property for other than public activity or purpose (on-going) **(Deferred to 9/14/12 meeting)**
- ES-19: BOE 12-006** Request from an employee or officer for an opinion from the Board of Ethics dated 6/8/12 as to whether conflicts of interest exist in actions taken by another officer(s) or employee(s) of the County **(Continued for 3 months)**
- ES-20: BOE 12-007** Complaint dated 6/12/12 alleging that an employee or officer of the County improperly disclosed information not available to the public and acquired in the course of their official duties **(Complaint dismissed)**
- ES-22: BOE 12-008** Complaint dated 7/6/12 alleging an employee or officer's bias or prejudice on an on-going matter in which the employee or officer is required to take official action. **(Complaint dismissed)**

RETURN TO OPEN SESSION

Ratify Board of Ethics actions taken in Executive Session for items:

ES-14, ES-24, ES-2, ES-3, ES-7, ES-8, ES-15, ES-16, ES-19, ES-20, ES-22, and ES-25 (**Executive Session items ratified by the Board**)

Please note that this memo presents a summary of the action taken, and reference should be made to the official minutes for a complete record.

cc: Mayor Bernard P. Carvalho, Jr.
Gary Heu, Managing Director
Paula Morikami, Boards and Commissions Administrator
Beth Tokioka, Executive Assistant
Alfred Castillo, Jr., County Attorney
Mona Clark, Deputy County Attorney
Teresa Tamura, Administrative Aide