

STATE OF HAWAII
DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

DATE: MAR -2

SUBJECT: Bd of Ethics

DUE _____

TO: S. Ono -

FROM: **DIRECTOR'S OFFICE**

3 _____ 4 _____ FYI COMMENT _____ REPORT _____ ACTION _____ SIGNATURE _____
5 _____ 6 _____ DRAFT _____ APPROVAL _____ RETURN _____ TYPE _____ CIRCULATE _____
7 _____ 8 _____ XEROX _____ COPIES FILE _____ APPROVED WITH CHANGES NOTED _____

MESSAGE OR COMMENTS:

At Mike Luce's request, enclosed are minutes of the Board of Ethics, County of Hawaii.

Roger & Les have copies.

*File
County of Hawaii*

BOARD OF ETHICS
COUNTY OF HAWAII

Minutes of Regular Meeting
January 10, 1990
Office of the Corporation Counsel
Conference Room

PRESENT:

Dan Barnes, Acting Chairman
Bill Crockett
Gale Takeya
Gail Makuakane-Lundin
David Ramos

STAFF:

Steven Christensen
Assistant Corporation Counsel

CALL TO ORDER:

Meeting was called to order by Acting Chairman Dan Barnes at 10:45 a.m.

APPROVAL OF MINUTES:

Bill Crockett moved that corrections be made to the minutes of December 13, 1989. The minutes stated that Dan Barnes made a motion for the Board to prepare an informal opinion regarding Keith Kato's petition, and the motion was seconded by Bill Crockett. Corrections should be made to indicate that Bill Crockett made the motion and it was seconded by John Andrade, Sr.

Bill Crockett moved that the minutes of December 13, 1989, be accepted as corrected. Seconded by Gale Takeya. Motion carried.

CORRESPONDENCE:

Letter from Susan J. Labrenz, Managing Director, County of Hawaii, dated January 3, 1990, regarding COGEL conference and training policies.

Motion was made by Gale Takeya to ask Susan Labrenz to attend next Board of Ethics meeting for a discussion concerning the COGEL conference and training policies mentioned in her letter. Seconded by Bill Crockett. Motion carried.

STATEMENTS FROM THE PUBLIC:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Election of officers

Election of Chairman and Vice-Chairman.

Gale Takeya moved that Dan Barnes be nominated as Chairman; seconded by Dan Barnes. Motion carried.

Gale Takeya moved that Bill Crockett be nominated as Vice-Chairman; seconded by Dan Barnes. Motion carried.

2. Petition of Les Brown dated December 21, 1989

Petitioner is presently employed by the County of Hawaii as a Real Property Tax Appraiser and is seeking to activate his Real Estate License.

11:02 Les Brown is called in to testify.

Les Brown is presently employed by the County as a Real Property Tax Appraiser for the County of Hawaii for the Districts of Hamakua and North Kohala. He would like to activate a Real Estate License and is inquiring whether a conflict of interest exists. Petitioner would be willing to sign an agreement to prohibit any real estate transactions on properties in the area that he is assigned to appraise as a Real Property Tax Appraiser for the County of Hawaii.

He would like the option to have his license activated, work on it to a degree to be able to get a brokers' license so that if he wanted to leave the County, he could.

He does not know whether any other county in this state has agreed to allow appraisers to activate real estate licenses. He does know of someone who came in from Arizona who was doing the same kind of work and did activate his real estate license in Arizona.

There are ten appraisers in his office. Every four to six years there is a change in assignments of the districts they are responsible for. They each have an area of responsibility.

He does not know whether the Real Estate Commission of the State of Hawaii renders advisory opinions regarding proposed conduct of a broker or real estate salesperson.

His official title is Real Property Tax Appraiser, although he is an assessor. He assesses the valuation of property.

Mr. Brown is excused.

Discussion held by the Board. Additional information will be obtained: (1) background information of case presented to Board of Ethics in 1983; (2) inquire whether other counties had a similar case; (3) inquire Hawaii Association Board of Realtors' position on tax appraisers being licensed; (4) how Board would follow up on guidelines to see they are being enforced if it draws up same.

Motion was made by Bill Crockett to table this matter until further information is gathered and discussed by the Board. Seconded by Gale Takeya. Motion carried.

11:25 Recess.

11:37 Meeting reconvened.

3. Petition of Roger Christie dated December 26, 1989

Petitioner is questioning Section 14.2(c) of the County Charter--whether it is a conflict of interest for Mike Luce to lobby for geothermal development due to his position as President of the Big Island Business Council and as a member of the Planning Commission.

11:40 Roger Christie called in to testify.

This matter came to his attention when he read the Hawaii Tribune-Herald of December 21, 1989, and the Honolulu Advertiser, the day before, which mentioned the geothermal issue. The articles mentioned lobbyists for the issue going to the Governor, and it caught his attention. He noticed the name Mike Luce as president of the Big Island Business Council, and he was familiar with Mike Luce as a person who is on the Planning Commission. He has been speaking to people in the community about this issue; there is concensus within the community at large that this does constitute a blatant conflict of interest.

He thinks it would be a conflict of interest for someone who is in such pro-business position to be on the Planning Commission to start with. It doesn't seem to be fair that a pro-business person be on the Planning Commission and vote on something that has to do with his occupation and has an interest in, any more than it would fair for an environmentalist on the Planning Commission and turn down every development issue. If it is so that this gentlemen has

a vested interest in his support, in his acquaintances and business associates, would certainly be in favor of pro-development issues, more than against it. Seems to me that, certainly with the geothermal issue, that a conflict appears to be there.

Section 14-2. Standards. It shall constitute a conflict of interest for any employee or officer of the county to:

(c) Engage in any...activity..., direct or indirect, which might reasonably tend to be incompatible with the proper discharge of his official duties or to impair his independence of judgment in the performance of his official duties.

Certainly, lobbying is an activity. Seems that someone who is a lobbyist is, very often lobbyists are paid, even if he wasn't paid, there is no way a lobbyist can be independent, a lobbyist is not independent, otherwise he wouldn't be a lobbyist.

But it is really the County Charter that we're defining here. This is an issue for all the people of Hawaii to get clear on. I think as a County we need to get clear on what ethics are and what conflicts are, because if this is not a conflict, then I'd be very surprised.

It was mentioned in the press recently that the lobbyist law in the County is really not paid attention to and that most lobbyists, that act as lobbyists, and get paid as lobbyists, are not signed up as lobbyists with the County like they should be. So, most lobbyists are acting in an illegal fashion to start with, you know, often, and here's a person who is reported as a lobbyist, whose doing a lobbying activity, whether he calls himself a lobbyist or not, he is acting as lobbyist in this activity.

I didn't know if this news report was accurate. I hope I made that clear on my petition that I didn't even know if this was true. Some things get in the news that aren't true, so I didn't want to convict Mr. Luce in advance.

It seems to be incompatible with being President of the Big Island Business Council. I think, it's true, it is only one vote, but every, we're only responsible for ourselves really, and I think that there is a conflict where someone might, his buddies might benefit financially from it, or he personally might benefit, it seems to me that he would withdraw and not....It says here you need to be independent of judgment and it seems to me that you can't be independent if you're head of the Business Council or if you're head of the Sierra Club, it goes the other way, too.

Testimony by Mr. Ruderman:

What happened at some of the final meetings, during the SOH one, it looked as though it wasn't going to go through. There was a lot of community opposition. There was a lot of conflict with proposed observation hole sites being right next to some else's property; there would be the noise nuisance, among other things. Mr. Luce proposed the idea to do it one at a time, starting up in the forest where nobody lives and that way the permit got approval. It diffused the issue. Basically, it postponed the problem to not be so immediate. During that time, Mr. Ruderman believes that Mr. Luce helped convince a lot of the other commissioners to approve it.

During the ORMAT hearing, we heard testimony from a lot of people that were against it. The two big issues that loomed at that time were noise problems and compensation issues which had not been resolved. There had been a theoretical compensation fund set up and when the details of that fund became clear, people were very upset about it because it only allowed for a maximum, if everything went perfectly, of \$100,000.00 a year to compensate people who had to move. Now a \$100,000.00 a year--some of these people have elaborate farms set up--it wouldn't even compensate one person a year.

Gary Mizuno, the Planning Commissioner, as well as some of the others on the commission, proposed a continuance and that they not decide yet with too many things going on. At that time Mr. Luce got very involved in the discussion and reminded everybody how the developers might be liable for fines if they're not on line by 1991 and argued that they should approve it, the sooner the better, that they shouldn't spend any more time on it, etc.

Is it a planning commissioner's role to debate fellow commissioners and to influence and try to win a certain decision?

Mr. Rudlerman's understanding of what they are doing is hearing and deciding. If it's not the planning commissioner's role to debate with fellow commissioners, then he thinks that we'll see a real conflict of interest in the transcripts.

Mr. Ruderman has a very special health interest that makes him interested in geothermal and the air quality in Puna. He chose his home in Puna because clean air is very important to his health. The Department of Health has not enacted the ambient air quality standards that it would need to protect his health from this geothermal development.

At the Planning Commission hearings, he as a member of the public had either three minutes or five minutes to testify about all of his concerns about it.

So when he goes to the planning commission and he has three minutes to explain, and one of the most dynamic members on the commission has all the time through all these hearings to influence his fellow commissioners, it takes his already limited input and biases it and effectively rules it out.

12:29 p.m. - Mr. Ruderman and Mr. Blakey are excused.

2. Financial Disclosures

David Ramos moved that the financial disclosures of the following be tabled for review until the next meeting; seconded by Gail Makuakane-Lundin. Motion carried.

Teruichi Kohashi
Akira Omonaka
Jane C. Yanabu
Peter Schneider
Elroy Osorio
Ray Michael Fuhrmann
Alexander Botelho
Keith T. Burley
Sherwood R.H. Greenwell
Aileen Lum
Hans L'Orange
Joseph C. Lucas
Baron Nakatani
Luana Lincoln
Ruby P. McDonald
Tito Nicolas
Betty Jo Fields
Pamela F. Cushnie
Dennis T. Inouye
Cora-May Jensen
Keith Kato
Bernard E.W. Meadows
Donald Tong
Jane C. Yanabu
John K. Payne
Conrad Alicuben
Kaoru Nagai
Robert A. Gaffney
Frank Sharp, Jr.
Constance Kiriu
Glenn Hudman
Fred E. Green, Jr.
William Loeffler
Beatrice L. Lau

William W. Stearns
Warren Nishimura
John Totten
Robert E. Bethea
Lani L. Apodaca
Fred Fujimoto
Robert Sanborn
Howard Alapai
Harry Takiue
Sidney Lee
Marion Eugenio
James I. Kukita
Katherin A. Hooper
Gary Menino
Reiso Nakamoto
Gloria Kobayashi
Kokichi Hara
George Martin
Wayne Ono
Earl M. Lucero
Bert Nakano
Francis D. Ouye
Yukio Nishimoto
Lynette Brown
David Fuertes
Glenn M. Ohashi
Gary Kawasaka
Piilani C. Desha
Virginia Goldstein
Norman Lindsey
Reginald T. Morimoto
Takashi Sasaki
Helen Yamada
Perry Harada

Tom Poy
Gilbert J. Benevides
Stanley Momohara
Tommy Ishimaru
Abraham Mahuna
James Beimborn

ANNOUNCEMENTS

None.

ADJOURNMENT:

Board set the next meeting date for Thursday, March 8, 1990, at 10:00 a.m., Conference Room, Office of the Corporation Counsel, instead of Wednesday, March 14, 1990.

There being no further business, meeting was adjourned at 12:45 p.m.

Respectfully submitted,

Myra M. Ochi
MYRA M. OCHI, Recorder

BOARD OF ETHICS
COUNTY OF HAWAII

Minutes of Meeting held on
February 8, 1990
Office of the Corporation Counsel
Conference Room

PRESENT:

Daniel Barnes, Chairman
Bill Crockett, Vice Chairman
Gale Takeya, Member
Gail Makuakane-Lundin, Member
David Ramos, Member

STAFF:

Steven Christensen
Assistant Corporation Counsel

CALL TO ORDER:

Meeting was called to order by Chairman Daniel Barnes at 10:30 a.m.

APPROVAL OF MINUTES:

Bill Crockett moved to accept the minutes of January 8, 1990, as circulated; seconded by Gale Takeya. Motion carried.

CORRESPONDENCE:

1. Comm. #44 -- 1/10/90 letter to Board from Steven C. Todd, Administrative Aide, regarding financial disclosures--deferred to next meeting.

2. Comm. #45 -- 1/16/90 copy of letter from John A. Wagner, County Clerk, to Lt. Governor Cayetano, regarding Amendment to Rule 8.6 of the Rules of Practice and Procedure of the Board of Ethics--file.

3. Comm. #46 -- 1/18/90 letter from Daniel Barnes to Susan J. Labrenz, Managing Director, regarding COGEL conference--file.

4. Comm. #47 -- 1/18/90 letter from Daniel Barnes to Russell E. Ruderman acknowledging receipt of his petition--file.

5. Comm. #48 -- 1/29/90 letter from Steven Christensen to Daniel Barnes enclosing appellate case research pursuant to petition of Roger Christie concerning Planning Commissioner Mike Luce--reviewed by board, discussion held. Bill Crockett moved to defer this matter until the next meeting; seconded by David Ramos. Motion carried.

Steve Christensen informed the Board that he received a call from Mits Sumada from the Chamber of Commerce and requested a copy of the petition filed by Roger Christie against Mike Luce. Discussion held. Bill Crockett moved that Mits Sumada be provided with copies of the petitions concerning Mike Luce; seconded by David Ramos. Motion carried.

6. Comm. #49 -- 1/29/90 letter from Daniel Barnes to Mike Luce with copies of petitions and related documents--discussion held, deferred until next meeting.

7. Comm. #50 -- 1/30/90 COGEL Guardian Information Request--file.

8. Comm. #51 -- 2/7/90 letter from Mike Luce to Daniel Barnes and Board members distributed during the meeting. Discussion held. Gale Takeya moved to have Steve Christensen draft a letter to Mike Luce informing him that the Board's questions would be based on the Code of Ethics; seconded by Bill Crockett. Motion carried.

STATEMENTS FROM THE PUBLIC:

None.

OLD BUSINESS:

1. Petition #14 -- Les Brown dated December 21, 1989. Motion made by Bill Crockett to defer this issue until the next meeting; seconded by David Ramos. Motion carried.

2. Petition #15 -- Roger Christie dated December 26, 1989. Motion made by Bill Crockett to defer this issue until the next meeting; seconded by David Ramos. Motion carried.

3. Discussion with Susan Labrenz, Managing Director, regarding COGEL conference and budget matters.

Susan Labrenz, Managing Director, present. Discussion held regarding the COGEL conference and budget for the Board of Ethics.

11:39 - Susan Labrenz was excused.

Discussion held by the Board members. Motion was made by Gale Takeya to draft a letter to Susan Labrenz, Managing Director, requesting that a Board of Ethics representative attend a COGEL conference and the possibility of holding a COGEL conference here in the future, due to the unavailability of any State conference; seconded by Bill Crockett. Motion carried.

4. Financial Disclosures

David Ramos moved that the financial disclosures of the following be tabled for review until the next meeting; seconded by Gail Makuakane-Lundin. Motion carried.

Robert E. Cooper
Judith P. Bredhoff
June S. Lewis
Jeanne B. Comer

Helen R. McCall
Edmund W. Hoku
James W. Higgins

NEW BUSINESS:

1. Petition of Russell Ruderman dated January 7, 1990

Petitioner is questioning whether it is a conflict of interest for Mike Luce to lobby for geothermal development due to his position as a member of the Planning Commission.

11:41 - Petitioner Russell Ruderman called in to testify. Jim Blakey from Kapoho Vacationland (P. O. Box 328, Pahoa, Hawaii 96778) also present.

Russell Ruderman lives in the Puna district, quite close to a lot of the geothermal development plants out there. He started going to the Planning Commission hearings last year on this geothermal permit. There were two series of hearings: one was the ORMAT/PGV permit and the other series was on the SOH (Scientific Observation Holes) permit. His complaint centers around his perception of Mike Luce as having a conflict of interest that should have made it inappropriate for him to vote on those issues. Mr. Ruderman also perceives the conflict of interest as hindering his rights as a resident. Further, during the final hearings for both of those permits, Mr. Luce became essentially, in his mind, an advocate for the developer. Mr. Luce persuaded other commissioners to approve these permits--some of the ones that were sort of sitting on the fence--Mr. Luce proposed compromises that would win votes over. Essentially, Mr. Ruderman's understanding of what the Planning Commission should do is to listen to the testimony that is brought before it and make a fair, impartial, unbiased decision on what is best for everyone concerned. After these hearings were over, Mr. Luce was part of a coalition of business leaders that went to Honolulu to lobby the Governor on their support for geothermal. At the time that Mr. Ruderman read that in the paper, all of his suspicions that had occurred during those hearings, were confirmed in his mind. The suspicions being that Mr. Luce is actively working toward geothermal getting a foothold on the island. Mr. Ruderman feels it's not within the normal role of a business leader to vote, lobby for a very controversial development, and

sit on the Planning Commission that decides what to do. The obviousness of Mr. Luce's pro-geothermal stance in going to lobby for it or to go to the Governor to express his interest in it, the culmination of that with the transactions Mr. Ruderman saw at the Planning Commission hearings convinced him that Mr. Luce was not impartial. Mr. Ruderman doesn't think Mr. Luce had independence of judgment. He doesn't think Mr. Luce treated him and some of his neighbors in an impartial manner as Mr. Luce came before the board to testify.

Mr. Luce never disqualified himself. To the contrary, he was a very active party in the discussions. Mr. Ruderman's understanding of the Code of Ethics and of Mr. Luce's position, is that he should have disqualified himself.

If Mr. Luce had appeared either neutral or at least relatively impartial during the hearings, then Mr. Ruderman wouldn't have had this feeling of conflict of interest.

Within those hearings, every single resident or representative from Puna expressed grave concerns either urging that they deny the permits or that they consider them further, and the only people that came before that commission to encourage approval were developers, utility representatives, and one or two business leaders--none of which were from Puna district, not one, throughout every one of those hearings on both of those subjects. The people of Puna that testified at those hearings were ignored and Mr. Ruderman thinks that that's a very blatant violation of his right to due process.

Testimony by Jim Blakey:

The scientific observation holes approval hearing was held in Kona and Mr. Luce carried that meeting and took the lead role in carrying the approval vote on the scientific observation holes which was the first of the geothermal approval which did basically open the door to the ORMAT approval. He was particularly effective in doing that. It's possible that the transcripts of the meeting might be a service to us to see how, to weigh how influential he happened to be in that specific meeting which was the approval meeting that came about. It did appear that it wasn't going to pass, and there was a lot of teetering amongst the commission members. He put forth a, what Mr. Blakey would call a coo--which was very smooth--what Mr. Luce was able to do in bringing the members around.

Mr. Luce took over the meeting and brought the people on the fence around by making a very shrewd proposal that the scientific observation hole wells be done one at a time. Mr. Luce took over a presentation to the people in the room and to the commission members. The vote was five to three.

I think this might be the tip of an iceberg and represent a pattern of abuse that goes back a ways. I think it probably goes back right to the confirmation hearing, Mr. Luce, being a member of the Planning Commission. I think the problem was a failure at that time, for someone, myself or others, to come forward and say this gentlemen would have a conflict of interest in almost every vote, being that he is President of the Big Island Business Council. The Charter does say that this Board is an investigative body, it's my suggestion, anyway, that there is an investigation so that we find, you know, that we answer that question.

Testimony from a member of the public, Louise Geiger Jones, Papaikou, Hawaii:

The question about Mr. Luce's conflict of interest is applicable because he is on the Planning Commission and his business interests might possibly be a conflict of interest because he is on the Planning Commission. As I look at you (Dan Barnes) I did hear that you were employed by HELCO, but you're not on the Planning Commission, you're on the Board of Ethics, which, to me, is not a conflict of interest, although, for you (Bill Crockett), since you are in some way, which only you know, connected with Mr. Luce, that might be a conflict of interest for you. It depends upon the Commission that the person is on whether or not they're in conflict of interest.

11:22 a.m. Petitioner is excused.

Discussion held by the Board regarding possible conflicts of Board members. Steve Christensen suggested that Mr. Barnes contact Mr. Luce and discuss this issue and ask that he attend the next scheduled meeting. Mr. Barnes will thereafter contact our office for further action. Investigation continuing.

4. Financial Disclosures

Financial disclosures of the following were tabled for review until the next meeting:

Robert E. Cooper
Judith P. Bredhoff
June S. Lewis
Jeanne B. Comer
Helen R. McCall
Edmund W. Hohu
James W. Higgins

ANNOUNCEMENTS

None.

ADJOURNMENT:

Board set the next meeting date for Thursday, February 8, 1990, at 10:00 a.m., Conference Room, Office of the Corporation Counsel, instead of Wednesday, February 14, 1990.

There being no further business, meeting was adjourned at 12:43 p.m.

Respectfully submitted,

Myra M. Ochi
Myra M. Ochi, Recorder



COUNTY OF HAWAII
BOARD OF ETHICS

January 29, 1990

Mr. Mike Luce
P. O. Box 1299
Kapaau, Hawaii 96755

Dear Mr. Luce:

Re: Hearing before Board of Ethics

Enclosed are copies of the petitions and appended documents which raise a question as to possible ethical impropriety.

The Board of Ethics will next meet on Thursday, February 8, 1990, at 10:00 a.m., at the Corporation Counsel conference room, Hilo Lagoon Centre, 101 Aupuni Street, Suite 325, Hilo, Hawaii. The Board will accord you full opportunity to respond to the petition.

Please telephone Steve Christensen, Assistant Corporation Counsel, at 961-8251 if you need any other information.

Very truly yours,

A handwritten signature in cursive script, reading "Daniel Barnes", is written over a horizontal line.

DANIEL BARNES, Chairman
Board of Ethics

SC:mo
Enclosures
cc: Corporation Counsel

88 26 PM 4 12

BOARD OF ETHICS
COUNTY OF HAWAII
HILO, HAWAII 96720

BY _____

PETITION

Date: December 26, 1989

NAME OF PETITIONER: Roger Christie RES. PHONE: 969-9712

ADDRESS: P.O. Box 1122 Hilo, Hawaii 96721 BUS. PHONE: 969-9712

STATEMENT OF THE NATURE OF PETITIONER'S INTEREST INCLUDING REASONS FOR THE SUBMISSION OF THE PETITION: Petitioner is a resident and citizen of Hawaii Island seeking the accountability of a county official to the people he serves. Petitioner noticed a news item in the local and statewide newspapers on Dec. 21, 1989 which raises a question of ethics.

SPECIFIC PROVISION OF THE CODE OF ETHICS IN QUESTION: County Charter page 31, Article XIV, Section 14-2 (c). 'It shall constitute a conflict of interest for any officer of the County to engage in any activity which might reasonably tend to impair his independence of judgment in the performance of his official duties.' Section 14-5 a-b-c-d.

COMPLETE STATEMENT OF FACTS: It is my understanding that Mr. Mike Luce, voted for development of govtown as an official of the Planning Commission, and lobbies for govtown as President of the Big Island Business Council.

STATEMENT OF THE POSITION OR CONTENTION OF THE PETITIONER.

It is my contention that news stories, if true, amply demonstrate the appearance of a conflict of interest on the part of Mr. Luce and his interest in govtown development. (continued below)

Roger Christie
Signature

Any petition which does not substantially comply with the foregoing requirements may be rejected. In addition, the Board may, for good cause, reject any petition.

If petitioner is the person with the ethics problem, please complete the following:

I, _____, do hereby request an (open/closed) hearing.

Signature

Does the appearance of such a blatant conflict of interest indicate a pattern of abuse? To be fair to the citizens of Hawaii Island and to Mr. Luce, I suggest a thorough investigation and a public hearing on this matter at the earliest possible time.

R.C. 2/4

the period of time required by the specific grant-in-aid or allotment.

Section 13-25. Separability. If any provision of this charter is held unconstitutional or invalid, the other provisions of this charter shall not be affected thereby. If the application of the charter or of any of its provisions to any person or circumstance is held unconstitutional or invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 13-26. Public Defender. The office of public defender shall be established by ordinance of the council when there is no other private or public agency which is adequately performing this function.

Section 13-27. County Election. No person shall be a candidate for more than one elective office in the same election, nor shall a candidate defeated in the primary election seek an elective office in the general election unless placed on said ballot as a substitute for a candidate who has expired, withdrawn or been disqualified. If no person is elected to a county office, the county council shall appoint a person to fill such office. County elections shall be conducted in accordance with the election laws of the state insofar as applicable.

ARTICLE XIV CODE OF ETHICS

Section 14-1. Enactment. The council shall adopt by ordinance a code of ethics which shall provide as a minimum standard the provisions of this article. More stringent provisions may be enacted.

Section 14-2. Standards. It shall constitute a conflict of interest for any employee or officer of the county to:

(a) Solicit or accept any gift, loan, gratuity, favor, promise or service with the understanding that the same may influence him in the proper discharge of his official duties.

(b) Use his official position to secure special privileges, consideration, treatment or exemption to himself or any person beyond that which is available to every other person.

(c) Engage in any business, transaction or activity or have a financial interest, direct or indirect, which might reasonably tend to be incompatible with the proper discharge of his official duties or to impair his independence of judgment in the performance of his official duties.

(d) Receive any compensation for his services as an officer or employee of the county from any other source other than the county, except as otherwise provided by this charter or by law.

(e) Appear in behalf of private interests for compensation before any agency of the county other than a court of law, nor represent private interests in any action or proceeding against the interest of the county in any litigation to which the county is a party. An officer serving the county without compensation, however, may appear for compensation in behalf of private interests before county agencies other than the one on which he serves and other than those agencies that have the power to review the actions of the agency on which he serves, or to act on the same subject matter as the agency on which he serves.

(f) Accept a retainer, compensation or election campaign contribution that is contingent upon action by a county agency.

Section 14-3. Disclosure of Interest. It shall be incumbent upon all employees or officers of the county to:

(a) Make full disclosure in writing to his appointing authority or to the council in the case of an elective officer, the possession or acquisition of any interests, financial or otherwise as might reasonably tend to create a conflict with the public interest. Any member of the council who knows that he has a personal interest, direct or indirect, in any action proposed or pending before the council shall disclose such interest prior to the taking of any vote thereon.

P.C. 384

(b) File a copy of such disclosure with the county clerk which shall become a matter of public record.

Section 14-4. Conduct of Employees. Officers and employees of the county while discharging their duties and dealing with the public shall adhere to the following precepts:

(a) All public property and equipment are to be treated as a public trust and are not to be used in a proprietary manner or for the personal purposes without proper consent.

(b) No person in a supervisory capacity shall engage in personal or business relationships with subordinates which might intimidate said subordinates in the discharge of their official duties.

(c) All persons shall be treated in a courteous, fair and impartial manner.



Section 14-5. Board of Ethics. There shall be a board of ethics appointed by the mayor with the approval of the council. It shall consist of five members who shall be residents of the county. Each shall serve for a term of five years. Upon the initial appointment of members pursuant to this charter, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. The committee shall establish its rules of procedure. Without limitation of its functions, the committee shall:

(a) Interpret the code of ethics for both county officials and the public and on its own may initiate and render opinions with respect thereto.

(b) Render advisory opinions to county officers and employees with respect to the code of ethics pursuant to written requests by officers and employees.

(c) Receive and initiate complaints of violations of the code of ethics and transmit such complaints to the council or the appropriate appointing authority, along with any pertinent advisory opinions thereto.

(d) Hold hearings or conduct investigations concerning application of the code of ethics and make public such violations of the code that come to its attention.

(e) Publish advisory opinions with such deletions as may be necessary to prevent disclosure of identity of persons involved where such opinions are rendered pursuant to subsection (b) above.

(f) Propose revisions to the code of ethics where not inconsistent with this charter.

Section 14-6. Penalties. The failure to comply with the provisions of Section 14-2 to 14-4, inclusive, shall constitute a cause for suspension, removal from office or employment, or such other penalty as the council may prescribe by ordinance. Nothing herein shall preclude any other remedy available against the officer or employee of the county as provided by law.

ARTICLE XV
CHARTER AMENDMENT OR REVISION

Section 15-1. Initiation of Amendments or Revisions. Amendments or revisions of this charter may be initiated only in the following manner:

(a) By ordinance of the council adopted after three readings on separate days and passed by the affirmative vote of two-thirds of the entire membership.

(b) By petition presented to the council, signed by qualified electors equal in number to at least twenty percent of the registered voters for the last preceding general election, setting forth the proposed amendments or revisions. Such petition shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments or revisions which may be made by the corporation counsel.

Each elector signing such petition shall print his name, add his signature, his residence address, his social security number and the date of signing on said petition. Signatures may be on separate sheets but each sheet shall have appended to it the affidavit of some person that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the county, that they

Business leaders meet with Waihee & lobby for geothermal development

By Dave Harada-Stone
Tribune-Herald

Representatives of the Big Island business community met yesterday with Gov. John Waihee to voice their support for geothermal development and seek his assurances that the state administration remains supportive as well.

The group included Hilo businessman and former state Sen. Richard Henderson, Japanese Chamber of Commerce and Industry President Clifton Tsuji and Big Island Business Council President Mike Luce.

In a joint statement issued through the offices of a public relations firm retained in connection with the preparation of a state-sponsored geothermal master plan, the three said Waihee assured them that "the state remains committed to the safe, efficient and environmen-

tally sound development of geothermal energy for (the Big Island)."

Speaking for the group, Henderson said: "I firmly believe that the people here today who met with the governor represent the mainstream of Big Island residents. We were concerned that recent anti-geothermal activities, which seemed to be targeted at grabbing headlines and generating misinformation, would send the wrong signal to the governor about how most Big Islanders truly feel."

Henderson was apparently referring to recent protests in which scores of anti-geothermal activists have been arrested for entering True Geothermal Co.'s drilling site in the Wao Kele O Puna forest area outside Pahoa.

Besides protesting at the site, anti-geothermal activists have been meeting with the governor

in Honolulu in an effort to get him to issue a moratorium on geothermal development. While he has refused, Waihee did say last week that his administration is in the process of "review and reassessment" of its geothermal policy.

Henderson indicated the group hoped to counter the negative publicity generated by such news events.

"That's been a big concern," he said. "But perhaps together, the state and the citizens in favor of good geothermal development can help inform people about the positive aspects of this much-needed project."

Among the pluses cited by Henderson and other geothermal proponents: a reduction in the burning of fossil fuels, which are believed to contribute to global warming, and a reduction in oil imports, upon which

Hawaii depends for 90 percent of its electricity.

Luce said he has visited modern, large-scale geothermal operations on the mainland and has come away convinced that tapping the steam beneath Kilauea Volcano would be a sound way to generate electricity.

"This technology is clean," he said. "I saw wildlife not 10 feet from a working well. Agricultural activity is abundant right next to these facilities and the towns near the geothermal operations are prospering as a result."

Henderson, meanwhile, took issue with opponents' contention that geothermal development threatens istle rain forests, noting that True's project will consume only about 300 of the more than 20,000 acres of forest land in the area.

Council votes to give Carter legal fees

By Dave Smith
Tribune-Herald

than \$51,000 billed Carter fits into that category.

The amendment to the committee recommendation, proposed by

internal complaints. The criminal charges were eventually dismissed by county prosecutors, and all of the internal complaints have either been dropped or

were brought against the former state officer of the year as a "means of punishing Maj. Carter."

"He was persecuted by the chief of police," he said. "No

MAR 2 1990 FRI 12:55 M. LUCE CONTRACTING, INC P. 85
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BOARD OF ETHICS
COUNTY OF HAWAII
HILO, HAWAII 96720

PETITION

... 1 11 6 07

Date: 1/7/90

NAME OF PETITIONER: RUSSELL E. RUDERMAN BY ^{ms} RES. PHONE: 965 8039

ADDRESS: PO Box 1840 PAHOA HI 96778 BUS. PHONE: "

STATEMENT OF THE NATURE OF PETITIONER'S INTEREST INCLUDING REASONS FOR THE SUBMISSION OF THE PETITION:

I am interested in my right to due process and to a fair, impartial evaluation of matters before the Hawaii County Planning Commission. I am a Puna resident; geothermal neighbor. I have health concerns w/ geothermal in my area; my state.

SPECIFIC PROVISION OF THE CODE OF ETHICS IN QUESTION:

2-83(d) 2-85(a) 3

"Impair his independence of judgement" "impartial manner"

COMPLETE STATEMENT OF FACTS: Commissioner Mike Luce acted as though he were an advocate for the developers throughout the S.O.H. PG geothermal permit hearings. The people of Puna, who spoke against projects, were ignored.

STATEMENT OF THE POSITION OR CONTENTION OF THE PETITIONER.

Mike Luce is part of a non-Puna, pro-geothermal, "business leaders associa w/ Richard Henderson", who sits on Helco & H.E.I. boards. Vocally pro-geot & no chance for fair decision by planning commission & my appeal was not heard! Mike Luce has conflicts of interests & not impartial - He should s.

Russell Ruderman
Signature

Any petition which does not substantially comply with the foregoing requirements may be rejected. In addition, the Board may, for good cause, reject any petition. These permits were unjustly

If petitioner is the person with the ethics problem, please complete the following:

I, _____, do hereby request an (open/closed) hearing:

Russell Ruderman
Signature

Mike Luce
P.O. Box 1299
Kapaa, HI 96755

February 7, 1990

Mr. Dan Barnes, Chairman
Board of Ethics
County of Hawaii
101 Aupuni Street
Hilo, HI 96720

Dear Mr. Barnes:

I received your letter of 29 January 1990 only yesterday, 6 February 1990, and have not as yet had time to review the contents of the attached "Petitions" dated 26 December 1989 and 7 January 1990.

While I would be able to respond within 20 days of my receipt of the above documents, I will be unable to attend your 8 February 1990 meeting because of a previous commitment to attend a regularly scheduled Planning Commission meeting (schedules attached).

Based only on what I read in the newspapers, it is clear and obvious to me that my involvement in many volunteer community and business groups enhances rather than inhibits my ability to serve on the Hawaii County Planning Commission. However, it is not clear and obvious to me what questions, if any, the Board of Ethics needs answered in order to act on this matter.

Should the Board choose to further pursue this matter, my response would be more focused by receiving a list of questions the Board feels relevant to this issue, and I ask the Board to forward to me such a list of questions, if any, as soon as possible.

It is my understanding that the Board of Ethics may handle the contents of this letter, and any other items relevant to, and any discussion of this matter in a confidential and closed manner, and I ask the Board to do so.

Additionally, because I am not a professional expert in the County Charter Code, or Rules & Regulations, etc., I ask that should the Board of Ethics decide to not dismiss this matter, the County of Hawaii provide me with legal counsel to assist me in the preparation of my response.

Thank you all for your patience and understanding.

Sincerely,



Mike Luce

cc: Corporation Counsel
Duane Kanuha, Planning Director
Mayor's Office, Hawaii County

attach.

Rec'd 2/22



COUNTY OF HAWAII
BOARD OF ETHICS

February 16, 1990

Mr. Mike Luce
P. O. Box 1299
Kapaau, Hawaii 96755

Dear Mr. Luce:

In response to your letter to the Board, I write to inform you that the Board's proposed queries to you will be based on the Code of Ethics in the County Charter and the Code.

The next Board of Ethics meeting is scheduled for Thursday, March 8, 1990. Your appearance at approximately 11:00 a.m. would be appreciated.

Please telephone the undersigned if any questions remain.

Very truly yours,

By Daniel Barnes
DANIEL BARNES, Chairman *md*
Board of Ethics

SC:mo

Mike Luce
P.O. Box 1299
Kapaau, HI 96755

February 23, 1990

Mr. Dan Barnes, Chairman
Board of Ethics
County of Hawaii
101 Aupuni Street
Hilo, HI 96720

Dear Chairman Barnes:

Thank you for your letter of 16 February 1990, which I received yesterday.

I have requested the County Planning Department to furnish me copies of the Hawaii County Charter and Hawaii County Code and will be requesting that Department to furnish me copies of transcripts of your Board's discussions of my actions at those hearings at which I was not present, as well as seeking legal advice.

Although your letters do not specifically ask me to reply within 20 days of my receipt of the "Petitions," it is my understanding that Rule 4.7a of the "Rules of Practice and Procedure of the Board of Ethics of the County of Hawaii" requires my response within 20 days. Unfortunately, I have not received and reviewed all the above documents, nor retained legal advice, but will endeavor to do so as soon as possible and respond in writing before your 8 March 1990 hearing.

It is also my understanding that Rule 4.7b states that an Investigatory Hearing Under Rule 5 will not be held except by my request. I am not requesting a Rule 5 investigatory hearing.

Thank you in advance for your attention to these matters.

Sincerely,

Mike Luce

Mike Luce

cc: Corporation Counsel
Duane Kanuha, Planning Director - County of Hawaii
Mayor's Office - County of Hawaii

Sec. 2-83

economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any person, except an officer, employed by the County or any agency thereof but the term shall not include an independent contractor.

(4) "Officer" includes the following:

(A) Mayor and members of the council;

(B) Any person elected or appointed as administrative head of any agency of the County or appointed as a member of any board or commission provided for in the Charter;

(C) Any person appointed by a board or commission as the administrative head of any agency of the County;

(D) Deputy, assistant or division chief appointed by the administrative head of any agency of the County; or,

(E) Assistant or deputies of the corporation counsel and prosecuting attorney. (1975 C.C., c.2, art. 8, sec. 4.)

Section 2-83. Standards of conduct.

(a) 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 can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

(b) No officer or employee shall use or attempt to use his official position to secure or grant unwarranted privileges, exemptions, advantages, contracts or treatment, for himself or others.

(c) No officer or employee shall disclose confidential information gained by reason of his official position or use such information for the personal gain or benefit of himself or anyone else.

(d) No officer or employee shall engage in any business, transaction or activity or have a financial interest, direct or indirect, which might reasonably tend to be incompatible with the proper discharge of his official duties or to impair his independence of judgment in the performance of his official duties, or use such information for his personal gain or for the benefit of anyone.

(e) No officer or employee shall receive any compensation for his services as an officer or employee of the County from any source other than the County, except as otherwise provided by this article.

(f) No officer or employee shall appear in behalf of private

Sec. 2-84-2-85

interests for compensation before any agency of the County other than a court of law, nor represent private interests in any action or proceeding against the interest of the County in any litigation to which the County is a party. An officer serving the County without compensation, however, may appear for compensation in behalf of private interests before County agencies other than the one on which he serves and other than those agencies that have the power to review the actions of the agency on which he serves, or to act on the same subject matter as the agency on which he serves.

(g) No officer or employee shall accept a retainer, compensation or election campaign contribution that is contingent upon action by a County agency. (1975 C.C.,c.2, art. 8, sec. 5.)

Section 2-84. Reserved. (Am. 1983, Ord. No. 83-7, sec. 2.)

Section 2-85. Conduct of officers and employees.

(a) Officers and employees of the County, while discharging their duties and dealing with the public, shall adhere to the following precepts:

(1) All public property and equipment are to be treated as a public trust and are not to be used in a proprietary manner or for personal purposes without proper consent.

(2) No person in a supervisory capacity shall engage in personal or business relationships with subordinates which might intimidate said subordinates in the discharge of their official duties.

(3) All persons shall be treated in a courteous, fair and impartial manner. (1975 C.C.,c.2, art. 8, sec. 7.)