

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission:	CIVIL SERVICE COMMISSION	Meeting Date:	February 1, 2022	
Location	Microsoft Teams Teleconference	Start of Meeting: 2:06 p.m.	End of Meeting: 5:18 p.m.	
Present	Chair Jeffrey Iida. Vice Chair Beverly Gotelli. Commissioners: V. Pamai Cano, Fely Faulkner, and Francis Kaawa. Deputy County Attorney Mark Ishmael (<i>left at 2:14pm</i>). Director Human Resources Annette Anderson (<i>left at 5:05pm</i>). Office of Boards and Commissions Staff: Administrator Ellen Ching (<i>left at 2:14pm</i>) and Commission Support Clerk Sandra Muragin.			
Excused	Commissioner Vonnell Ramos.			
Absent				
SUBJECT	DISCUSSION			ACTION
	Commissioner Faulkner entered the meeting at 2:06 p.m. after resolving computer issues.			
Call To Order/ Roll Call	<p>Chair Iida called the Open Session meeting to order at 2:06 p.m. and requested a roll call.</p> <p>Commission Support Clerk Sandra Muragin verified attendance and requested a verbal response of present or here and to identify if anyone was present with them at their location during the meeting;</p> <p>Commissioner Cano replied present and alone. Commissioner Faulkner present and alone. Commissioner Kaawa replied here and alone. Commissioner Ramos replied present and alone. Vice Chair Gotelli replied present and alone. Chair Iida replied present and alone. Deputy County Attorney Ishmael replied present and alone. Human Resources Director Anderson replied present and identified Deputy County Attorney Hugo Cabrera in the same room. Administrator Ching replied present and alone. Support Clerk Muragin replied present and alone.</p>			Quorum was established with five commissioners present.
Approval of Agenda				Vice Chair Gotelli moved to approve the agenda, as presented. Ms. Cano seconded the motion. Motion carried 5:0.
Public	Ms. Muragin reported receipt of two written testimonies.			

SUBJECT	DISCUSSION	ACTION
<p>Comments and Testimony</p>	<p>Councilmember Felicia Cowden testified that as the committee member for public safety she asked the commission to not approve, but defer the January 4, 2022, open session meeting minutes. She said the concerns of the people were overlooked and it would be wise and judicious to include the testimonies. She said the group was suing Governor David Ige and it would go to the Hawai‘i Supreme Court with the intention of it moving up to the U.S. Supreme Court. She asked that they defer approval of the January 4, 2022, open session meeting minutes.</p> <p>Chair Iida asked if anyone else wanted to testify. Hearing none he moved on to the next agenda item.</p>	
<p>Executive Session</p>	<p>Chair Iida asked for a motion to enter appeal hearing executive session.</p> <p>Ms. Ching read the Appeal Hearing and Hawaii Revised Statutes to move the meeting into Executive Session.</p> <p>Pursuant to Hawai‘i Revised Statutes §76-14 the Merit Appeals Board shall decide appeals from any action under Chapter 76. Pursuant to §76-47, a jurisdiction may continue to use its Civil Service Commission or Appeals Board, with or without modification, as its Merit Appeals Board to assume all of the functions and responsibilities under section §76-14. Pursuant to Hawai‘i Revised Statutes §92-6(a)(2)(D), when the Civil Service Commission is exercising its adjudicatory functions, the appeal hearing may be closed to the public.</p> <p>Pursuant to Hawai‘i Revised Statutes §92-7(a), the Commission may, when deemed necessary, hold an Executive Session on any agenda item without written public notice if the Executive Session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such Executive Session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). Discussion held in Executive Session are closed to the public.</p>	<p>Ms. Faulkner moved to enter Appeal Hearing Executive Session. Vice Chair Gotelli</p>

SUBJECT	DISCUSSION	ACTION
		<p>seconded the motion. Motion carried 5:0.</p> <p>The commission and staff, disconnected from open session at 2:14 p.m. and connected into appeal hearing executive session.</p>
<p>Call To Order in Open Session/ Roll Call</p>	<p>Chair Iida called the Open Session meeting back to order at 5:09 p.m. and requested a roll call.</p> <p>Commission Support Clerk Sandra Muragin verified attendance and requested a verbal response of present or here and for the record to announce and identify if anyone was present with them at their location during the meeting;</p> <p>Commissioner Cano replied present and alone.</p> <p>Commissioner Faulkner replied present and alone.</p> <p>Commissioner Kaawa replied present and alone.</p> <p>Vice Chair Gotelli replied present and alone.</p> <p>Chair Iida replied present and alone.</p> <p>Commission Support Clerk Muragin replied present and alone.</p>	<p>Quorum was established with five commissioners present.</p>
<p>Ratify Actions</p>	<p>Ratify actions taken in executive session for ES-03, ES-04 and ES-05.</p>	<p>Ms. Faulkner moved to ratify actions taken in executive session for ES-03. Ms. Cano seconded the motion. Motion carried 5:0.</p>
<p>Approval of Meeting Minutes</p>	<p>a) Open Session Minutes of January 4, 2022.</p>	<p>Vice Chair Gotelli moved to defer approval of the Open Session Minutes of January 4, 2022. Mr. Kaawa seconded the motion. Motion carried 5:0.</p>
<p>Announcements</p>	<p>Next Meeting: Tuesday, March 1, 2022 – 3:00 p.m., Microsoft Teams Teleconference</p>	

SUBJECT	DISCUSSION	ACTION
	The commission discussed available dates to continue the appeal hearing meeting and decided a first choice of Wednesday, February 23 and second choice of Tuesday, February 22. Ms. Muragin stated she would confirm the dates with the two parties and notify the commissioners by email.	
Adjournment	Chair Iida asked for a motion to adjourn.	Ms. Faulkner moved to adjourn the meeting. Vice Chair Gotelli seconded the motion. Motion carried 5:0. Chair Iida adjourned the meeting at 5:18 p.m.

Submitted by: _____
Sandra Muragin, Commission Support Clerk

Reviewed and Approved by: _____
Jeffrey Iida, Chair

(X) Approved as circulated. 03/01/22

() Approved with amendments. See minutes of _____ meeting.

From: [Christopher Lyden](#)
To: [Mayor](#); [Council Members](#); [Sandra Muragin](#)
Subject: Public Comments on Civil Service Comm. meeting , 1-4-22
Date: Wednesday, January 26, 2022 2:08:54 PM

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Mayor Kawakami and County Council Members,

In regards to the Civil Service Commission hearing of January 4th, 2022, I was one of the Kauai residents who took the time to address the Commission in Public testimony against the proposed policy change that would demand all applicants wishing to be employed by the County of Kauai would be required to be vaccinated to be considered for any position.

I saw the proposed minutes of the January 4th meeting in the agenda packet awaiting approval and was shocked to find that my and others' verbal testimony, as well as all those who submitted written testimony, had been excluded from the minutes. The lack of any record of opposition testimony would appear to mean the Civil Service Commission did not keep any record of the public's comments in opposition to their proposal. If neither the written comments, not the verbal testimony was recorded, transcribed, or retained for review, I would not believe this was not a mere oversight. Omitting any record of public opposition would appear to invalidate any public involvement in the governmental process. Ignoring public input invalidates the process of responsive government.

Where are the written comments of opposition? Where are the

transcripts or recordings of the verbal testimony? Why are they not in the minutes of the meeting (as required)? Why are We, the People of Kauai being intentionally ignored? To eliminate any record of opposition is to arrogantly thumb your nose at the public who wants to be involved in the process of local governance.

Since you, as Mayor and Council Members, did not get to see or hear the multiple people who publicly testified in opposition to the Commission's proposal, I am including a transcript below, of what I prepared and presented to the Commission, which has chosen to exclude from the official record.

Should not the agencies of government be open to the opinions of the public, who they are supposed to be serving? My comments should be reviewed, as my clinical opinions are pertinent, and the legal ramifications of the proposal going forward could be financially devastating to our local government.

My Public Testimony from Jan. 4, 2022:

"I am Dr. Christopher Lyden, a longtime resident of Kauai. I am a retired Chiropractic Physician with post-doctoral education in Neurology. I am not a virologist, or epidemiologist, but since I treated many patients who had been neurologically injured by vaccines, I studied the benefits and risks of injuries associated with vaccines for over 30 years. The currently used Covid vaccines are not conventional vaccines, and are instead referred to as "gene-therapy medicinal products" by their pharmaceutical manufacturers. They are associated with hundreds of thousands of 'Adverse Events' (deleterious side effects) and over 20,000 deaths, according to the CDC's VAERS vaccine recording system.

I would like give public testimony on Counsel member Cowden's letter: CSC 2022-02, because I agree with the points she has made. The suggested changes to consider only 'vaccinated applicants' for County employment will create an unfair bias in hiring practices. Such a policy would be both medically unjustified and unlawful, based upon

Federal Regulations and the Hawaii Revised Statutes.

One of the world experts on vaccines is Dr. Robert Malone, the inventor of the mRNA technology utilized in the SARS CoV-2 vaccines. According to Dr. Malone, “the viral genes injected into your cells make toxic Spike Proteins [that] cause permanent damage in critical organs, including:

- The brain and nervous system
- The heart and blood vessels
- The reproductive system
- And this vaccine can trigger fundamental changes to the immune system

This novel technology has not been adequately tested. Once these damages have occurred they are irreversible and irreparable.” (Dr. Robert Malone)

The American Heart Assoc. journal *Circulation* (Abstr. 10712) states: **Cardiac Risk increases by 225% after getting the Covid vaccine.**

Fully vaccinated adults *under 60* are now dying at double the rate of unvaccinated adults of same age.

There are also **legal ramifications** of your proposed policy changes:

The NIH has stated (Aug. 18, 2020): “[You] have every Right to refuse a vaccine...If someone refuses a vaccine...then there’s nothing you can do about that. You cannot force someone to take a vaccine.”

The **US Supreme Court** has recognized that a “forcible injection ... into a non-consenting person's body represents a substantial interference with that person's liberty.” *Washington v. Harper*, 494 U.S. 210, 229.

21 C.F.R. Section 50.24 et seq. “...it is unlawful to conduct medical research (even in the case of emergency) without...informed consent free of coercion.” The act of injecting an experimental drug into an individual without their informed consent is a violation of their Human Rights, and the Nuremberg Codes, based on medical coercion.

Under **US Code 2331, subsection 802**, any time a US citizen is forced to do something they might not otherwise wish to do, it is “coercion.” It is a felony, punishable by a 99 prison term, to coerce anyone in a population to accept a drug or medical procedure that they do not want to participate in. An ‘Experimental’ vaccine falls within this classification. Withholding something of value, including employment, based upon someone needing to comply with a demand is to unlawfully coerce them.

This proposed policy would also violate:

Hawaii Revised Statutes 489-3: Free and Equal Access to Public Accommodations

Hawaii Constitution, Article 1, Section 4: Free exercise of religious expression without discrimination. Eg. If someone refuses a vaccination because it contains extracts of aborted

human fetal cells (and they all do), their religious freedom has been denied them. Violation of the above is a felony.

Hawaii Professions & Occupations Code 453-2: Practicing medicine without a license. To encourage, demand, or require a person to take any medicinal product is to practice medicine, and requires a medical license to do so.

You have no authority to recommend, much less demand, that applicants participate in a drug trial. Particularly one in which there are recognized serious health risks, including permanent disability, and death.

Discriminating against someone based on their medical condition, their medical history, disability, or personal religious views (which includes refusal to be injected with inoculations that contain aborted fetal tissue), is a clear violation of their Civil Rights.

Let this serve as a Notice of Liability to each public official on this call:

As a subsection of the County Government, the Civil Service Commission would be wise to realize that once you have been informed of these facts, you could possibly open yourselves to legal remedies in both your *personal* as well as *professional capacity*. Aggrieved persons who are denied employment based on discrimination for refusal to participate in an ongoing experimental drug trial, may be able to recover up to three times the actual damages from lost wages, including but not limited to injunctive relief, punitive damages, and reasonable attorney's fees. Violating the Code of Federal Regulations and the US Codes mentioned above, would be committing felonies punishable with extended jail time and sizable fines."

Thank you for reviewing the above.

Dr. Christopher Lyden

COUNTY COUNCIL

Arryl Kaneshiro, Chair
Mason K. Chock, Vice Chair
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Luke A. Evslin
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

January 28, 2022

**TESTIMONY OF FELICIA COWDEN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
APPROVAL OF MEETING MINUTES
a) Open Session Minutes of January 4, 2022**

Civil Service Commission of the County of Kaua'i
Tuesday, February 1, 2022
2:00 p.m.
Meeting Available Via Microsoft Teams

Dear Chair Iida and Members of the Civil Service Commission:

As an individual member of the Kaua'i County Council, I **oppose** the Commission approving the above-referenced meeting minutes and request that you **defer** this agenda item so the minutes can be amended for inclusion of crucial missing details. Although I understand that the Commission has other matters to address during its February 1, 2022 meeting, the accuracy and approval of minutes are important functions for open government.

During the Commission's January 4, 2022 Open Session, agenda item CSC 2022-02 was discussed. Numerous participants provided public testimony. However, the proposed minutes are incomplete because there is no mention of the names of the testifiers, the nature of their testimony, or whether the testimonies were in support of or opposition to the agenda item. (Additionally, attaching written testimony to the minutes, while not required, is more user-friendly for the public, and furthermore more streamlined for Commission staff, than requiring interested persons to separately request those records pursuant to the Uniform Information Practices Act, Hawai'i Revised Statutes (HRS) Chapter 92F.)

Regarding what must be included in minutes of a "board," such as the Civil Service Commission, HRS Section 92-9(a) states in pertinent part:

"(a) The board shall keep written or recorded minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. Written minutes shall include, but need not be limited to:

- (1) The date, time and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

(Emphasis added.) The Office of Information Practices (OIP) explained of HRS Section 92-9 that “the statute requires the minutes to reflect the views of non-board members who participated in the meetings” (See OIP Opinion Letter No. 03-13). Although attaching written testimony to the minutes is not a requirement, “OIP concludes that, in order for minutes to give a ‘true reflection of the matters discussed at the meeting and the views of the participants,’ the minutes must generally describe only the oral testimony or presentations at the meeting” (See OIP Opinion Letter No. F14-02). Accordingly, the draft minutes of the January 4, 2022 meeting that pertain to CSC 2022-02 are inadequate because they do not reflect the substance of what was discussed, utterly lacking any reflection of the views of the testifier participants. It is particularly important to avoid defects in minutes and public records at this time when medical status discrimination (such as the County’s employment policy that was at issue) is being scrutinized by relevant court cases at the State and Federal levels.

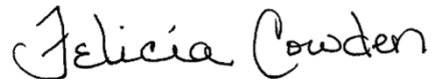
Additionally, it would be helpful for Members of the Commission to request additional pertinent information be reflected in the minutes as authorized by HRS Section 92-9(a)(4). It was stated during the January 4, 2022 meeting that the issues raised by CSC 2022-02 are not the purview of the Civil Service Commission, but this is not correct. Pursuant to the Charter of the County of Kaua’i, Section 15.03.C., one of the Commission’s powers and duties is to: “Advise the mayor and director of human resources on problems concerning personnel and classification administration.” One way of becoming equipped to offer that advice is to consider citizen perspectives on personnel matters. Therefore, the concerns of the impacted citizens who testified during CSC 2022-02 should not be dismissed as irrelevant to the Commission. There were at least two (2) testifiers whose families have been directly impacted by these policies and were in fact the inspiration for my November 30, 2021 memorandum to the County Administration (which was not addressed solely to the Commission but also included the Mayor, Managing Director, County Attorney, and Director of Human Resources—again, in keeping with the various Charter responsibilities of each recipient). Lawsuits are currently underway in Hawai’i and elsewhere that are likely to refute these types of hiring discrimination policies.

Jeffrey Iida, Chair and Members of the Civil Service Commission
Re: Testimony Relating To Approval Of Meeting Minutes, a) Open Session Minutes
of January 4, 2022
January 28, 2022
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Based on the above, I believe it is the Commission's obligation under HRS Section 92-9 to defer this matter until the January 4, 2022 minutes relating to agenda item CSC 2022-02 are amended to be legally sufficient.

Thank you for your consideration of this request. Should you have any questions, please feel free to contact me at (808) 241-4188.

Sincerely,

A handwritten signature in black ink that reads "Felicia Cowden". The signature is written in a cursive, flowing style.

FELICIA COWDEN
Councilmember, Kaua'i County Council

JA:dmc