

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

State of Hawaii

Date: Thursday, January 22, 2015

Time: 10:00 a.m.

Place: Hawaii State Ethics Commission Conference Room
American Savings Bank Tower
1001 Bishop Street, Suite 960
Honolulu, Hawaii 96813

Present: State Ethics Commission Members
Edward L. Broglio, Chair
David O'Neal, Vice Chair
Susan N. DeGuzman, Commissioner
Ruth D. Tschumy, Commissioner
Melinda Wood, Commissioner

State Ethics Commission Staff
Leslie H. Kondo, Executive Director
Susan D. Yoza, Associate Director
Nancy C. Neuffer, Staff Attorney
Virginia M. Chock, Staff Attorney
Megan Y. S. Johnson, Staff Attorney
Bonita Y. M. Chang, Staff Attorney

CALL TO ORDER

The meeting was called to order at approximately 10:00 a.m. by Chair Broglio.

SUNSHINE LAW SESSION

Agenda Item No. I: Minutes: Consideration and Approval of the Minutes of the December 17, 2014, Meeting

Vice Chair O'Neal moved and Commissioner Tschumy seconded a motion to approve the minutes of the December 17, 2014, Sunshine Law meeting. The motion carried unanimously (Broglio, O'Neal, DeGuzman, Tschumy, and Wood voting).

Agenda Item No. II: Executive Session Minutes: Consideration and Approval of the Minutes of the December 17, 2014, Executive Session

Vice Chair O'Neal moved and Commissioner DeGuzman seconded a motion to approve the Executive Session minutes of the December 17, 2014, meeting. The motion carried unanimously (Broglia, O'Neal, DeGuzman, Tschumy, and Wood voting).

Agenda Item No. III: Executive Director's Report

1. Education/Training

Executive Director Kondo said that 24 ethics training sessions were held during 2014 and a number of training sessions have already been held in 2015. The Governor's Office has requested ethics training for its staff, and the Chief Clerks of the House and the Senate have been offered ethics training for employees of the legislature. Executive Director Kondo said that staff may consider targeting its ethics training efforts to specific groups of state employees (i.e., a specific board or department), depending on attendance levels at the general ethics training sessions.

2. Office of Information Practice's Sunshine Law Reminder Regarding Approving Legislative Testimony

Executive Director Kondo presented the January 2015 Office of Information Practices ("OIP") Quick Review: Sunshine Law Options to Address State Legislative Issues and Measures for the Commission's information. The OIP memo reviews Sunshine Law requirements for boards and commissions involved in proposed legislation.

Executive Director Kondo said that legislation is very important because it provides the Commission an opportunity to help shape policy with the legislature. In the past staff has been delegated to present a proposed bill package to the legislature and to prepare and present testimony on various legislative matters. Executive Director Kondo asked if the Commission would like to be further involved in the legislative process.

Commissioner Tschumy asked if Commissioners should accompany staff to provide testimony on legislative matters. Executive Director Kondo said that Commissioners are welcome to join staff at legislative hearings and also invited Commissioners to speak with legislators regarding the Commission's budget request.

Chair Broglia said that the Commission previously approved the nine proposed bills that are part of the Commission's 2015 legislative package. Executive Director Kondo said that staff will notify Commissioners when these bills are scheduled to be heard.

Commissioner DeGuzman said that unless staff feels it would be beneficial for Commissioners to be present for a specific hearing or for a specific purpose, she would defer to staff to provide testimony on legislative matters.

Agenda Item No. IV: 2015 Legislative Session

1. Bill to Amend the Exemption for Legislators from HRS Section 84-13 and to Clarify That Task Force Members Must File Public Financial Disclosure Statements;
2. Bill to Amend Exemptions for Task Force Members from Certain Provisions of the State Ethics Code and to Clarify that Task Force Members Must File Public Financial Disclosure Statements;
3. Bill to Add a Provision on Nepotism to the State Ethics Code;
4. Bill to Expand the Conflicts-of-Interests Section of the State Ethics Code;
5. Bill to Allow the State Ethics Commission to Extend the Period of Time in which Advisory Opinions Must be Issued;
6. Bill to Require Mandatory Ethics Training for Employees Who Must File Public Financial Disclosure Statements;
7. Bill to Remove the Requirement that Violations of the Lobbyists Law Must be “Willful” Before Penalties May be Assessed;
8. Bill to Amend the Definition of Lobbying “Expenditures” and the Reporting Requirement for Expenditures; and
9. Bill to Clarify the Reporting Requirement for Special Session Lobbying Activities.

Chair Broglio asked for public testimony on this agenda item. There was no public testimony offered at this time.

Associate Director Yoza provided a brief update regarding the status of the Commission’s legislative package. The Commission’s proposed bills were submitted to the Senate and House leadership for introduction and the bills have started to be introduced at the legislature. Staff is in the process of identifying and tracking the Commission’s proposed bills, as well as other bills of interest to staff.

Associate Director Yoza and Executive Director Kondo met with the chairs of the House and Senate Judiciary committees to request consideration of the Commission’s proposed bills. Executive Director Kondo is scheduled to meet with Representative Sylvia Luke, Chair of the House Finance Committee, regarding the Commission’s budget,

which is basically a flat budget. Additionally, staff is requesting a one-time appropriation to fix the online electronic filing system. Associate Director Yoza said that because there is a two-year legislative cycle, all bills introduced this year will also be under consideration next year.

Executive Director Kondo provided a brief report regarding staff's request for a one-time appropriation to address online electronic filing system issues. Staff has received two estimates: one from from PacXa (the current computer consultant and designer of the current system) and one from Hawaii Information Consortium (the state's portal manager), both which were much higher than anticipated.

Chair Broglio asked about possibility of looking at other state electronic filing systems that could be used. Executive Director Kondo said that an electronic filing system would need to fit in with the current SharePoint system. Staff looked at other systems including the Campaign Spending Commission's online filing system that was designed by the State's Information and Communication Services Division ("ICSD"). Staff contacted the State's Office of Information Management and Technology ("OIMT") for assistance with this project, but was unsuccessful in getting either ICSD or OIMT to assist with the project.

Commissioner DeGuzman asked about cost estimates potentially exceeding the amount requested from the legislature. Executive Director Kondo said that Representative Luke was given a copy of the estimate from PacXa, and will also be provided with the estimate from Hawaii Information Consortium. Both estimates will be sent to Senate President Donna Mercado Kim as well, since the online electronic filing system project may dovetail with Senator's Kim's proposal to develop mandatory online training.

Agenda Item No. V: Discussion of Staff Guidance to State Board Member Regarding Application of Hawaii Revised Statutes Section 84-14(a) (Conflicts of Interest)

Chair Broglio requested a motion to recess the public meeting and to convene an executive session pursuant to Haw. Rev. Stat. section 92-5(a)(4), to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

RECESS OF PUBLIC MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 10:25 a.m., Commissioner DeGuzman made and Vice Chair O'Neal seconded a motion to recess the Sunshine Law meeting and to convene an executive session pursuant to Haw. Rev. Stat. section 92-5(a)(4), to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. The motion carried unanimously (Broglio, O'Neal, DeGuzman, Tschumy, and Wood voting).

EXECUTIVE SESSION

The Commission met in Executive Session.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO THE PUBLIC MEETING

At approximately 10:35 a.m., the Commission returned to the public meeting.

Chair Broglio called for a motion to approve staff's recommended advice and to authorize staff to convey the advice to the State Board Member in a staff letter.

Vice Chair O'Neal moved and Commissioner Wood seconded a motion to approve staff's recommended advice to the State Board Member and to authorize that the advice be conveyed in a staff letter to the State Board Member. The motion carried unanimously (Broglio, O'Neal, DeGuzman, Tschumy, and Wood voting).

Agenda Item No. VI: Peer News LLC, dba Civil Beat, vs. State Ethics Commission; Civil No. 14-1-2011-09 RAN; Motion for Preliminary Injunction

Executive Director Kondo presented the Order Granting Plaintiff Peer News LLC's Motion for Preliminary Injunction filed September 25, 2014, and the Petition for Writ of Mandamus and Writ of Prohibition filed January 7, 2015, for the Commission's information.

Agenda Item No. VII: Executive Director's Job Performance

Chair Broglio requested a motion to recess the public meeting and to convene an executive session pursuant to Haw. Rev. Stat. section 92-5(a)(2), to consider personnel matters affecting the Executive Director's privacy interest.

RECESS OF PUBLIC MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 10:38 a.m., Commissioner DeGuzman moved and Vice Chair O'Neal seconded a motion to recess the public meeting and to convene an executive session pursuant to Haw. Rev. Stat. section 92-5(a)(2), to consider personnel matters affecting the Executive Director's privacy interest. The motion carried unanimously (Broglio, O'Neal, DeGuzman, Tschumy, and Wood voting).

Discussion was held regarding the preparation, review and maintenance of the minutes of the executive session regarding this matter. It was the consensus of the Commission that the following executive session will be recorded and that Executive

Director Kondo will prepare the minutes of the executive session regarding Agenda Item No. VII: Executive Director's Job Performance for review by the Commissioners.

EXECUTIVE SESSION

The Commission met in Executive Session.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO THE PUBLIC MEETING

At approximately 11:47 a.m., the Commission returned to the public meeting.

ADJOURNMENT

At approximately 11:48 a.m., the Commission voted to adjourn the Sunshine Law meeting. The motion carried unanimously (Broglia, O'Neal, DeGuzman, Tschumy, and Wood voting).

The meeting was adjourned at approximately 11:51 a.m.

Minutes approved on February 18, 2015.