

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

State of Hawaii

Date: Wednesday, April 15, 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

CALL TO ORDER

The meeting was called to order at approximately 10:01 a.m. by Chair Broglio.

Agenda Item No. I: Minutes: Consideration and Approval of the Minutes of the March 18, 2015, Meeting

Commissioner Tschumy moved and Vice Chair O'Neal seconded a motion to approve the minutes of the March 18, 2015, Sunshine Law meeting. The motion carried unanimously (Broglio, O'Neal, DeGuzman, and Tschumy voting).

Commissioner Wood entered the meeting at approximately 10:03 a.m.

Agenda Item No. II: Executive Director's Report

1. Electronic Filing Update

Executive Director Kondo said the contract process with Hawaii Information Consortium ("HIC") is ongoing as staff is requesting an additional level of detail to be added to HIC's Statement of Work. Executive Director Kondo said that staff is expecting a test application by HIC within the next two weeks, with the "fix" to the electronic filing system to be completed in May in time for the deadline to file financial disclosure forms and lobbying forms. Executive Director Kondo also mentioned that he met with Todd Nacapuy, the new administrator of the State's Office of Information Management and Technology, to talk about the Commission's electronic filing needs.

2. Civil Beat Financial Disclosure Tool

Executive Director Kondo said that Civil Beat has launched a new tool on its website that allows users to search public financial disclosures that are filed with the Commission. Executive Director Kondo said that Civil Beat has manually inputted the data gleaned from the images of the public financial disclosure forms found on the Commission's website. Civil Beat's tool allows searches, such as which filers have stocks in certain companies, and provides the links to the forms on the Commission's website.

3. State Procurement Office's Notice to State Vendors Regarding Gifts of Golf

Executive Director Kondo provided the Commission with a sample letter that Sarah Allen of the State Procurement Office ("SPO") had written to vendors as a result of the Commission's resolution of the golf investigation regarding vendors providing free golf to state employees. The sample letter informs the vendors of the ethics laws to avoid potential debarment, an extreme remedy, which prohibits a company from bidding or working on a state contract. The SPO has posted information on its website to remind state employees and contractors about the procurement code of ethics.

4. Hawaii State Ethics Commission Financial Report for FY 2014-2015 (Quarter Ending March 31, 2015)

Executive Director Kondo said the financial report was for the Commission's information only. The Commission acknowledged the financial report.

Agenda Item No. III: 2015 Legislative Session: Discussion of Legislative Proposals

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

Associate Director Yoza stated that almost all of the bills that staff has been tracking, including the Commission's bills, are dead for this year but they will be carried over to 2016.

Associate Director Yoza reviewed the two bills that are currently moving through the legislature. The first bill, Senate Bill No. 996, appropriates funds for the Commission's electronic filing system. The amount of the funding, which was previously \$130,000, was removed in the latest draft of the bill. Associate Director Yoza said that the appropriation amount will be worked out in conference committee. The second bill, House Bill No. 126, provides an appropriation for legislative staff salary adjustments for parity with collective bargaining salary adjustments for union employees.

Commissioner Wood asked if the majority of bills died due to resistance to the bills or a lack of interest by legislators. Associate Director Yoza said that it may be a combination of both. Associate Director Yoza said staff met with key committee chairs about the Commission's bills at the start of session. At one of these meetings, Representative Karl Rhoads, Chair of the House Committee on Judiciary, said it was his practice to hear the more controversial or involved bills in the first year of the two-year session. The Associate Director said Representative Rhoads explained that even if he does not hold a hearing on a bill this year, he could still intend to hear the bill next year. Associate Director Yoza said that staff will again meet with the committee chairs at the start of next year's legislative session to discuss the Commission's bills.

Executive Director Kondo asked that the Commissioners provide feedback or any suggestions regarding the discussion of legislative proposals.

Agenda Item No. IV: Delinquent Filers: 2014 Disclosure of Financial Interests; Discussion and Consideration of the Following State Board Members' Requests to Waive the Statutory Fine Assessed for Their Failure to Timely File Their Financial Disclosure Statements: Jose Diogo, Board of Taxation Review, and Wallace Ishibashi, Jr., Hawaiian Homes Commission

Executive Director Kondo said that staff sent letters to filers who failed to file their financial disclosure forms in 2014 as required by statute. The last set of letters assessed an administrative fine of \$50 and an additional penalty of \$10 for each day that the financial disclosure form remained unfiled. The letters also informed the filers that they could request a waiver of the administrative fines for good cause shown as stated in Hawaii Revised Statutes section 84-17(i). Staff received requests to waive administrative fines from Jose Diogo, a member of the Board of Taxation Review, and Wallace Ishibashi, Jr., a member of the Hawaiian Homes Commission. Executive Director Kondo said that staff recommends granting the waiver requests from Mr. Diogo and Mr. Ishibashi.

Executive Director Kondo said that staff is following up with the remaining nine board members and one employee who have not responded to letters that were sent to the 45 delinquent filers for 2014. Executive Director Kondo said that staff is also

following up with one board member and one employee who filed their forms, but have not paid their fines nor requested a waiver of their fines.

The Commission discussed whether filers who were delinquent in 2014 and filed their late forms in 2015 were still required to file another form for 2015. Vice Chair O'Neal recommended that the forms received in 2015 from the delinquent filers be considered their filings for 2014, and that they be required to file another form for 2015. Chair Broglio agreed with Vice Chair O'Neal that the 2014 delinquent filers be requested to file another form for 2015. Executive Director Kondo said that staff would send a letter to the 2014 delinquent filers that their forms received in 2015 would be for their 2014 filing, and that they would need to complete another financial disclosure for their 2015 filing.

Commissioner Wood inquired about the date that triggered the assessment of fines for individuals who failed to file their 2014 financial disclosure forms. Executive Director Kondo said that letters were sent out around March 2015. Commissioner Wood mentioned that the date seemed rather late to follow up with delinquent filers in 2014. Chair Broglio requested that staff follow up on the enforcement process shortly after the filing deadline in 2015 so that the filers are aware that they have not filed according to statute. Chair Broglio requested for the next Commission meeting a timeline with dates of actions to be taken for the 2015 late financial disclosure filers. Chair Broglio said that this will ensure that the entire process for filers who are delinquent in their 2015 filings will be resolved by the close of 2015.

Commissioner Wood also asked why staff recommended that the fines for Mr. Diogo and Mr. Ishibashi be waived. Executive Director Kondo said that the two individuals wrote what they felt were good reasons for not filing on time. Executive Director Kondo said that the requests for waivers were consistent with those received from other individuals that were presented at the last Commission meeting. Executive Director Kondo also said that there is a large amount of time spent by staff following up on the collection of fines from delinquent filers.

Vice Chair O'Neal moved and Commissioner Tschumy seconded a motion to waive, for good cause shown, the administrative fine assessed against Jose Diogo, Board of Taxation Review, for the late filing of his 2014 financial disclosure form. The motion carried unanimously (Broglio, O'Neal, DeGuzman, Tschumy, and Wood voting).

Vice Chair O'Neal moved and Commissioner DeGuzman seconded a motion to waive, for good cause shown, the administrative fine assessed against Wallace Ishibashi, Jr., Hawaiian Homes Commission, for the late filing of his 2014 financial disclosure form. The motion carried unanimously (Broglio, O'Neal, DeGuzman, Tschumy, and Wood voting).

Executive Director Kondo asked Chair Broglio if he could add an item to the Executive Director's Report. Chair Broglio assented.

Agenda Item No. II: Executive Director's Report

Executive Director Kondo provided to the Commission a letter received shortly before the Commission meeting from Department of Education ("DOE") Superintendent Kathryn Matayoshi, which expressed Superintendent Matayoshi's concerns about staff's interaction with a DOE principal and a complex area superintendent. Executive Director Kondo said that he checked with the Office of Information Practices and was told that, because the Sunshine Law agenda had been filed, the letter from Superintendent Matayoshi could not be discussed by the Commission without it being placed on the agenda.

Agenda Item No. V: Evaluation of Executive Director's Job Performance; Discussion and Consideration of the Executive Director's Job Performance

Chair Broglio said that written testimony was received from Tom Russi and Christine Paul Russi. Chair Broglio asked for public testimony on this agenda item. There was no public testimony offered at this time.

Chair Broglio requested a motion to recess the Sunshine Law 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 SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 11:03 a.m., Vice Chair O'Neal moved and Commissioner DeGuzman seconded a motion to recess the Sunshine Law 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).

EXECUTIVE SESSION

The Commission met in Executive Session.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO THE SUNSHINE LAW MEETING

At approximately 12:49 p.m., Vice Chair O'Neal moved and Commissioner DeGuzman seconded a motion to adjourn the executive session. The motion carried unanimously (Broglio, O'Neal, DeGuzman, Tschumy, and Wood voting).

At approximately 12:49 p.m., the Commission returned to the Sunshine Law meeting.

Agenda Item No. VI: Evaluation of Executive Director: Permitted Interaction Group Report Regarding 360° Evaluation; Permitted Interaction Group (Commissioners Broglio and DeGuzman) to Report Its Compilation of Staff Comments (i.e., the 360° Evaluation) Regarding Executive Director's Job Performance to the Commission

Chair Broglio said that at this Commission meeting, the Permitted Interaction Group's report would be presented to the Commission and, in accordance with the Sunshine Law, no action would be taken on the report until the subsequent Commission meeting.

Chair Broglio requested a motion to recess the Sunshine Law 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 SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 12:50 p.m., Vice Chair O'Neal moved and Commissioner DeGuzman seconded a motion to recess the Sunshine Law 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).

EXECUTIVE SESSION

The Commission met in Executive Session.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO THE SUNSHINE LAW MEETING

At approximately 12:52 p.m., Vice Chair O'Neal moved and Commissioner Wood seconded a motion to adjourn the executive session and return to the Sunshine Law meeting. The motion carried unanimously (Broglio, O'Neal, DeGuzman, Tschumy, and Wood voting).

At approximately 12:52 p.m., the Commission returned to the Sunshine Law meeting.

ADJOURNMENT

At approximately 12:52 p.m., Vice Chair O'Neal moved and Commissioner Tschumy seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Broglia, O'Neal, DeGuzman, Tschumy, and Wood voting).

The meeting was adjourned at approximately 12:52 p.m.

Minutes approved on May 27, 2015.