

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

State of Hawaii

Date: Thursday, August 11, 2016

Time: 9:30 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

Susan N. DeGuzman, Chair
David O'Neal, Vice Chair
Ruth D. Tschumy, Commissioner
Reynaldo D. Grauly, Commissioner

State Ethics Commission Staff

Daniel M. Gluck, Executive Director
Susan D. Yoza, Associate Director
Nancy C. Neuffer, Staff Attorney
Virginia M. Chock, Staff Attorney
Bonita Y. M. Chang, Staff Attorney

Deputy Attorneys General (after 10:00 a.m.)

Robyn Chun
Kimberly Guidry
Russell Suzuki

Not Present: Melinda W. Wood, Commissioner

CALL TO ORDER

The meeting was called to order at approximately 9:32 a.m. by Chair DeGuzman.

Chair DeGuzman noted for the record that Commissioner Wood was absent, having been excused from the meeting.

Agenda Item No. I: Consideration and Approval of the Minutes of the June 2, 2016 Meeting

Commissioner Tschumy made and Vice Chair O'Neal seconded a motion to approve the minutes of the June 2, 2016 Sunshine Law meeting. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

Agenda Item No. II: Consideration and Approval of the Executive Session Minutes of the June 2, 2016 Meeting

Commissioner Gaulty made and Vice Chair O'Neal seconded a motion to approve the Executive Session minutes of the June 2, 2016 Sunshine Law meeting. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

Agenda Item No. III: Consideration and Approval of the Minutes of the June 16, 2016 Meeting

Chair DeGuzman noted that she had inquired from staff as to whether the funds appropriated by the Legislature for En Pointe contract had been encumbered, and staff reported that those funds had been encumbered.

Vice Chair O'Neal made and Commissioner Gaulty seconded a motion to approve the minutes of the June 16, 2016 Sunshine Law meeting. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

Agenda Item No. IV: Consideration and Approval of the Executive Session Minutes of the June 16, 2016 Meeting

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 9:35 a.m., Commissioner Gaulty made and Vice Chair O'Neal seconded a motion to convene an Executive Session pursuant to Hawaii Revised Statutes section 92-5(a)(2), to discuss matters relating to the hire of an employee, and 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 (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

The Commission met in Executive Session.

RECESS OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 9:37 a.m., Commissioner Gaulty made and Vice-Chair O'Neal seconded a motion to recess the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

Commissioner Tschumy made and Vice Chair O'Neal seconded a motion to approve the Executive Session minutes of the June 16, 2016 Sunshine Law meeting, as revised. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

Agenda Item No. V: Consideration and Approval of the Minutes of the June 28, 2016 Meeting

Staff Attorney Chock recommended that the minutes be revised by adding footnote #1 to reflect that the July 22, 2016 meeting was canceled (such that no minutes exist for that meeting).

Vice Chair O'Neal made and Commissioner Gaulty seconded a motion to approve the minutes of the June 28, 2016 Sunshine Law meeting, as revised. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

Agenda Item No. VI: Consideration and Approval of the Executive Session Minutes of the June 28, 2016 Meeting

Staff Attorney Chock recommended that the minutes be revised by adding footnote #1 to reflect that the July 22, 2016 meeting was canceled (such that no minutes exist for that meeting).

Commissioner Gaulty made and Commissioner Tschumy seconded a motion to approve the Executive Session minutes of the June 28, 2016 Sunshine Law meeting, as revised. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

Agenda Item No. VII: Executive Director's Report

The Commissioners welcomed Daniel Gluck, Executive Director, to the job and to his first Commission meeting.

Executive Director Gluck offered to answer the Commissioners' questions regarding the education/training report, 2016 gifts disclosure filings, and candidates' financial disclosures for 2016. He noted that staff had been taking extra steps to try to inform candidates regarding their disclosure obligations, and that there was close to 100% compliance as of the date of the meeting. Staff Attorney Chang noted that 166 of 169 had filed as of the date of the meeting. She further noted that an updated press release would be issued, noting the names of those who had not filed disclosures. Executive Director Gluck explained that the Commission is required by statute to publish the names of those candidates who missed the deadline, but that some candidates had attempted to file on time but had technical difficulties in doing so.

Executive Director Gluck noted that on June 17, 2016, staff issued a Memorandum to State Agencies re: Campaign Restrictions.

Executive Director Gluck discussed the June/July 2016 guidance and assignment statistics, noting that staff had opened approximately 91 new matters since June 1. He also explained that the Commission has an "Attorney of the Day" who takes questions from state employees, legislators, lobbyists, and other members of the public. As a general rule, anyone who calls the office is able to speak with an attorney that same day. Executive Director Gluck strongly encourages members of the public to contact the office for assistance, and is conducting outreach to so inform the public.

Executive Director Gluck presented the financial report for the most recent quarter, and then discussed outreach efforts to hire for the vacant staff attorney position. Executive Director Gluck explained that, even when that position is filled, it is likely that additional staff resources would be sought (particularly, an investigator/paralegal) to handle the increasing work load in the office; however, he noted that he wanted to see how the office was functioning once the new staff attorney was on board before making any recommendations to the Commissioners or the Legislature.

Executive Director Gluck then discussed the status of the electronic filing system, explaining that he has been working with Staff Attorney Chang and Commission Computer Specialist Patrick Lui on the project. Executive Director Gluck reported that the office executed the contract with En Pointe, had a conference call with the contractor on August 10, and met with the Office of Enterprise Technology Services ("ETS") personnel the week of August 1. Executive Director Gluck explained that ETS personnel were extraordinarily helpful, and that ETS is busy working on a state-wide log-in system that would save the Commission a great deal of resources. Rather than spending contract funds developing this log-in system, the system can instead be built off of ETS's log-in system, freeing up time to design forms and processes specific to the Commission's work. Executive Director Gluck reported that ETS is hoping to have its system available by the first of the year, and that staff is working to have the first forms (legislators' disclosure forms) available for on-line use by legislators by January 31, 2017.

Agenda Item No. VIII: Hawaii State Teachers Association v. Hawaii State Ethics Commission

Chair DeGuzman asked whether any member of the public wanted to submit testimony on this item. No public testimony or comments on this matter was offered or received.

Associate Director Yoza noted that representatives from the Attorney General's office would be joining the meeting at 10:00 a.m. to discuss Agenda Items VIII and IX.

RECESS OF SUNSHINE LAW MEETING

At 9:48 a.m., Commissioner Gaulty made and Commissioner Tschumy seconded a motion to recess the Sunshine Agenda meeting. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

RETURN TO SUNSHINE LAW MEETING

The meeting was reconvened at approximately 10:10 a.m. by Chair DeGuzman. The Chair recognized that representatives from the Attorney General's office were in attendance.

RECESS OF SUNSHINE LAW MEETING AND RECONVENING OF EXECUTIVE SESSION

At approximately 10:11 a.m. Commissioner Tschumy made and Commissioner Gaulty seconded a motion to reconvene the Executive Session pursuant to Hawaii Revised Statutes 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 (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

The Commission met with its attorneys in Executive Session.

RECESS OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 11:11 a.m., Commissioner Gaulty made and Vice Chair O'Neal seconded a motion to recess the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

Agenda Item No. IX: Boyd v. Hawaii State Ethics Commission

RECESS OF SUNSHINE LAW MEETING AND RECONVENING OF EXECUTIVE SESSION

Commissioner Tschumy is recused from the Boyd matter and was excused from the meeting.

At approximately 11:12 a.m. Commissioner Gaulty made and Vice Chair O'Neal seconded a motion to reconvene the Executive Session pursuant to Hawaii Revised Statutes 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 (DeGuzman, O'Neal, and Gaulty voting).

The Commission met with its attorneys in Executive Session.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 11:31 a.m., Commissioner Gaulty made and Vice Chair O'Neal seconded a motion to adjourn the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (DeGuzman, O'Neal, and Gaulty voting).

Commissioner Tschumy re-joined the meeting.

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 11:32 a.m., Commissioner Gaulty made and Vice Chair O'Neal seconded a motion to adjourn Sunshine Law meeting. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, and Gaulty voting).

The meeting was adjourned at 11:32 a.m.

Minutes approved on September 15, 2016.