

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

State of Hawaii

Date: Thursday, September 15, 2016
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

Susan N. DeGuzman, Chair
Melinda W. Wood, Commissioner
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
Pat Mukai, Secretary

Not Present: David O'Neal, Vice Chair

CALL TO ORDER

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

Chair DeGuzman noted for the record that Vice Chair O'Neal was absent, having been excused from the meeting.

Agenda Item No. I: Consideration and Approval of the Minutes of the August 11, 2016 Meeting

Commissioner Tschumy made and Commissioner Graulty seconded a motion to approve the minutes of the August 11, 2016 Sunshine Law meeting. The motion carried unanimously (DeGuzman, Tschumy, Wood, and Graulty voting).

Agenda Item No. II: Consideration and Approval of the Executive Session Minutes of the August 11, 2016 Meeting

Associate Director Yoza explained that a minor correction was made to a sentence on page 3 of the Executive Session minutes.

Commissioner Graulty made and Commissioner Tschumy seconded a motion to approve the Executive Session minutes of the August 11, 2016 meeting, as amended. The motion carried unanimously (DeGuzman, Tschumy, Wood, and Graulty voting).

Agenda Item No. III: Hawaii State Teachers Association vs. Hawaii State Ethics Commission, Civil No. 15-I-2453-12 (RAN)

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 10:03 a.m., Commissioner Graulty made and Commissioner Tschumy seconded a motion to convene an 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, Tschumy, Wood, and Graulty voting).

The Commission met in Executive Session.

RECESS OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 10:07 a.m., Commissioner Graulty made and Commissioner Wood seconded a motion to recess the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (DeGuzman, Tschumy, Wood, and Graulty voting).

Agenda Item No. IV: Boyd vs. Hawaii State Ethics Commission, SCWC-14-0000352 (Haw. July 19, 2016)

Executive Director Gluck informed the Commission that after the Hawaii Supreme Court (“Court”) issued its decision, Mr. Boyd’s attorney filed a motion for attorneys’ fees and costs with the Court. Executive Director Gluck said that the Attorney General’s office opposed the motion, which is now pending before the Court.

Executive Director Gluck explained that Mr. Boyd is requesting approximately \$38,000 in attorneys’ fees and approximately \$2,000 in costs for the appeal only, based on the private attorney general doctrine. The Attorney General’s office responded that the State has sovereign immunity and that the private attorney general doctrine does not allow for attorneys’ fees in this case.

Executive Director Gluck said that after the Court issues an order regarding Mr. Boyd’s motion for fees and costs, the Court will enter a final judgment in the matter, which will then trigger any action to be taken by the Commission in response to the Court’s decision.

Agenda Item No. V: Executive Director’s Report

1. Education/Training Report

Executive Director Gluck said that he attended the general ethics training conducted by staff with approximately 275 state employees at Mission Memorial Auditorium on September 14. He said that the training went very well. He also reported that training sessions will be held on Hawaii Island (Hilo and Kona), Maui, and Kauai in October. In addition, an ethics training session will be held for attorneys later in the year and staff has worked with the Hawaii State Bar Association to obtain accreditation for that session. Attorneys who attend this training will receive 1.5 mandatory continuing legal education credits and the Commission’s attorneys who conduct the training will receive 3 credits.

2. Guidance and Assignment Statistics

Executive Director Gluck referred to the guidance and assignment statistics in the meeting materials. The Commissioners had no questions about this.

RECESS OF SUNSHINE LAW MEETING AND RECONVENING OF EXECUTIVE SESSION

At approximately 10:12 a.m., Commissioner Grauly made and Commissioner Tschumy seconded a motion to reconvene the Executive Session pursuant to Hawaii Revised Statutes section 92-5(a)(2) to discuss matters relating to the hire of an employee. The motion carried unanimously (DeGuzman, Tschumy, Wood, and Grauly voting).

3. Staffing Update

The Commission met in Executive Session.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 10:27 a.m., Commissioner Grauly made and Commissioner Tschumy seconded a motion to adjourn the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (DeGuzman, Tschumy, Wood, and Grauly voting).

Agenda Item No. V: Executive Director's Report (Continued)

4. COGEL Conference - December 2016

Executive Director Gluck said that he and Commissioner Grauly will attend the COGEL conference in New Orleans this year.

5. Electronic Filing System Update

Executive Director Gluck updated the Commission about the electronic filing system project. He said that staff is working with the Commission's contractor to make the Commission's forms electronic and is also changing some of the forms. He explained, for example, that staff is thinking about consolidating the three separate lobbying report forms for lobbyists, employers of lobbyists, and lobbying clients into one report. Executive Director Gluck stated that things are going well with the electronic filing project.

Chair DeGuzman later in the meeting asked whether the financial disclosure form will address the reporting of information about a filer's personal residence. Staff Attorney Chang explained how the revised form will use a drop down menu to instruct filers how to report information about a personal residence. Staff Attorney Chang stated that the Commission's contractor is experienced in designing forms and has been very helpful to staff.

6. Report on Executive Director's outreach to legislators, lobbyists, and other stakeholders and topics to consider for public discussion at October 20, 2016 Commission meeting (including possible recommendation of statutory changes to the Legislature and possible proposed areas for administrative rules).

Executive Director Gluck said that he has met with ten senators and twelve representatives and has more meetings scheduled in the next two weeks. He said the meetings have been interesting and informative, and that while there are divergent views about what the ethics code should allow or prohibit, the Commission as an agency has much support from the Legislature.

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 10:32 a.m., Commissioner Wood made and Commissioner Tschumy seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (DeGuzman, Tschumy, Wood, and Gaulty voting).

The meeting was adjourned at 10:32 a.m.

Minutes approved on October 20, 2016.