

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Friday, March 17, 2017
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

Reynaldo D. Graulty, Chair
Susan N. DeGuzman, Commissioner
Ruth D. Tschumy, Commissioner
Melinda S. Wood, 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
Kee M. Campbell, 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 Graulty.

Agenda Item No. I: Consideration and Approval of the Minutes of the February 16, 2017, Meeting

Associate Director Yoza explained that the minutes will be amended to reflect that Chair Grauly did not participate in the approval of the Sunshine Law minutes for January 19, 2017, because he did not attend the January 19 meeting.

Commissioner DeGuzman suggested that the name of the Commission's intern be included in the minutes. Executive Director Gluck replied that the intern's name (Gil Serrano) will be added to the minutes and that his brief internship has already ended because he was called into active military duty.

Commissioner Tschumy made and Commissioner DeGuzman seconded a motion to approve the minutes of the February 16, 2017 Sunshine Law meeting, as amended. The motion carried unanimously (Grauly, DeGuzman, Tschumy and Wood voting).

Agenda Item No. II: Consideration and Approval of the Executive Session Minutes of the February 16, 2017, Meeting

Commissioner Tschumy made and Commissioner DeGuzman seconded a motion to approve the minutes of the February 16, 2017 Executive Session. The motion carried unanimously (Grauly, DeGuzman, Tschumy, and Wood voting).

Agenda Item No. III: Executive Director's Report

1. Education / Training Report

Executive Director Gluck discussed upcoming training sessions that have been scheduled, including sessions on the neighbor islands. He said that staff has also received requests for additional training and he believes there may be a record number of attendees at the training sessions this year.

2. Guidance and Assignment Statistics

Executive Director Gluck referred to the statistics report and said that staff's work remains steady.

3. Electronic Filing System Update

Executive Director Gluck explained that ETS (Office of Enterprise Technology Services) has been negotiating with Microsoft for the software for the Commission's e-filing portal. ETS recently learned the software is being phased out by Microsoft. ETS is now looking for new software but fortunately, the system being built by the

Commission's contractor will be compatible with the new software. ETS believes that in another two weeks, it will choose the new software and then put it out for procurement. During the procurement process, trial licenses for the software may be provided to ETS.

4. Personnel Update

Executive Director Gluck again explained that Gil Serrano, the Commission's intern, was placed on active duty for the military and will not be able to finish his internship at this time; Mr. Serrano may come back at a later time. Executive Director Gluck said that Chuck Totto is now working part-time for the Commission and has been helping with some of the investigations.

5. Ethics Awards & Social Media

a. Attachment – social media samples

Executive Director Gluck asked the Commissioners how they felt about giving awards to promote positive ethics behavior. He said, for example, that if all the financial disclosure filers in a department submit their disclosure forms on time, an award could be given to the department. He said that all members of both the Senate and the House of Representatives filed their financial disclosure statements on time this past January and awards could be given to both the Senate President and the House Speaker. Executive Director Gluck said that these types of awards would be based on objective criteria. Other awards might be more subjective -- for example, an award could be given to someone who did good work to promote ethics education.

Commissioner Tschumy said that the awards were an excellent idea.

Commissioner DeGuzman asked how the Commission would know what departments are doing to promote ethics education. Executive Director Gluck explained that sometimes departments contact the Commission's office to request training and sometimes staff becomes aware through registrations or other means that a department is encouraging its employees to attend training sessions.

Executive Director Gluck said the Commission could also invite people to nominate individuals who are deserving of awards. Commissioners Tschumy and Wood both liked this idea. Commissioner Wood said this will give departments an opportunity to let the Commission know what they are doing to promote ethics.

Executive Director Gluck said the awards would be in the form of a certificate printed on card stock. Chair Gaulty said that the certificates can be displayed in directors' offices. He said that the awards were a very good idea.

Commissioner DeGuzman asked later in the meeting whether the Commission decided to issue awards to the Legislature as discussed and whether staff will go ahead and prepare the certificates. Executive Director Gluck said that he would like to issue

the certificates at the appropriate time so that the announcement of the awards can serve as a reminder to other filers about the May 31 filing deadline. By consensus, the Commissioners agreed that staff can prepare the certificates for the Senate President and House Speaker and that all Commissioners can either sign them in person or have their signatures placed electronically on the certificates.

Executive Director Gluck also discussed the Commission's use of social media. Currently the Commission has about 450 followers on Twitter, which is not a very large number. Executive Director Gluck would like to expand the Commission's use of social media as an educational tool. He asked for the Commission's input on this, particularly if staff highlights news articles from the mainland relating to ethics issues. He referred to sample tweets that Staff Attorney Campbell had drafted. Executive Director Gluck said he does not want the Commission's office to be seen as partisan, but he thinks it would be helpful to expand the Commission's educational mission this way.

Chair Grauly said he believes that more people use Facebook and Twitter than email these days. Executive Director Gluck said the Commission does not have a Facebook page but staff can set one up. He said there may be guidelines about the censorship of comments posted on a state Facebook page and he will ask the Attorney General's office about this.

Commissioner Wood said she thinks it would be worth trying to use Twitter as a means of outreach. Commissioner Tschumy said it was a great idea.

Executive Director Gluck asked the Commissioners how they feel about staff's use of humor in some of the Commission's social media messages. Commissioner Wood said she thinks the messages can be entertaining and this may attract more interest among employees.

Executive Director Gluck also showed the Commissioners a new one-page ethics guide for new employees and board and commission members. The new guide was sent to the Judiciary, Legislature, and Department of Human Resources Development. He said staff is working on a similar guide for gifts.

6. Miscellaneous Office Projects / Updates

Executive Director Gluck updated the Commission about the Code for Hawaii project, the records retention policy for the office, and clean-up and re-cabling work within the office to create more workspace.

Agenda Item No. IV: Legislative Update

Update on bills upon which the Ethics Commission has testified, including: (a) Bills introduced at the request of the Ethics Commission, and (b) Other bills. (See complete list of bills and their descriptions on the Commission's public meeting agenda for March 17, 2017.)

Executive Director Gluck explained that the Commission's omnibus bill died earlier in the session, but the bill was split into six component bills and four of the six bills are still alive. Executive Director Gluck reported on the status of the four bills: SB 872, HB 508, HB 511, and HB 852.

SB 872, a housekeeping measure which allows the Commission to hire its own attorneys, has crossed from the Senate to the House. Executive Director Gluck said he will request a hearing of the bill by the House Judiciary Committee.

HB 508, HB 511, and HB 852 crossed over from the House to the Senate, and were heard and passed by the Senate Judiciary and Labor ("JDL") Committee. All three bills are single-referral bills which will move forward for a floor vote by the Senate and then will be headed to conference committee.

HB 508 increases fines for ethics and lobbyist law violations and clarifies that the Commission can settle cases and impose fines as part of its settlements.

HB 511 adds more thresholds to determine when someone must register as a lobbyist. Currently, anyone who is paid to lobby and lobbies more than five hours in a month must register. HB 511 originally provided that anyone who lobbies on three or more bills in a session, or for ten or more hours in a calendar year, must also register. The JDL Committee took out the reference to three bills and left blank the number of bills lobbied upon that will trigger the lobbyist registration requirement. The committee also took the lobbying provisions from HB 508 and placed them in HB 511, so there are now separate bills for HRS Chapter 84 (HB 508) and Chapter 97 (HB 511).

HB 852 increases fines for late financial disclosures and candidate disclosures and allows the Commission to notify late filers by e-mail or first class mail.

Executive Director Gluck said he is optimistic about the Commission's bills although they must still go through conference committee.

Executive Director Gluck also updated the Commission about the status of two UH technology transfer bills, which are still alive. One of the bills, HB 425, creates an exemption to the ethics code for technology transfer programs. The Executive Director testified against allowing any person or any program to be exempt from the ethics code.

Agenda Item No. V: Requests for Advisory Opinions

1. Consideration of language of deleted (i.e., redacted) Advisory Opinion regarding a state employee's ability to engage in private employment where potential conflicts may arise between the employee's private employment and duties as a state employee.

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 10:32 a.m., Commissioner DeGuzman made and Commissioner Tschumy seconded a motion to convene an Executive Session pursuant to Hawaii Revised Statutes § 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; and §§ 92-5(a)(8) and 84-31(f) to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law, or a court order. The motion carried unanimously (Grauly, DeGuzman, Tschumy, and Wood voting).

The Commission met in Executive Session.

RECESS OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 10:34 a.m., Commissioner De Guzman made and Commissioner Wood seconded a motion to recess the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (Grauly, DeGuzman, Tschumy, and Wood voting).

Agenda Item No. V: Requests for Advisory Opinions

2. Consideration of language of deleted (i.e., redacted) Advisory Opinion regarding potential conflicts between a state official's: (1) private participation in a lawsuit and duties as a state official; and (2) private employment and duties as a state official.

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 10:35 a.m., Commissioner Wood made and Commissioner Tschumy seconded a motion to convene an Executive Session pursuant to Hawaii Revised Statutes § 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; and HRS §§ 92-5(a)(8) and 84-31(f) to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential

pursuant to a state or federal law, or a court order. The motion carried unanimously (Graulty, DeGuzman, Tschumy, and Wood voting).

The Commission met in Executive Session.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 10:39 a.m., Commissioner Tschumy made and Commissioner Wood seconded a motion to adjourn the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (Graulty, DeGuzman, Tschumy, and Wood voting).

Commissioner Wood made and Commissioner DeGuzman seconded a motion to approve the state official's request that the Commission publish the unredacted advisory opinion issued to him. The motion carried unanimously (Graulty, DeGuzman, Tschumy, and Wood voting).

Commissioner Wood made and Commissioner DeGuzman seconded a motion to approve publication of the unredacted advisory opinion with the state official's name, but without his address. The motion carried unanimously (Graulty, DeGuzman, Tschumy, and Wood voting).

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 10:40 a.m., Commissioner Tschumy made and Commissioner Wood seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Graulty, DeGuzman, Tschumy, and Wood voting).

The meeting was adjourned at 10:40 a.m.

Minutes approved on: April 20, 2017