

SUNSHINE LAW MEETING  
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, April 20, 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. Grauly, Chair  
David O'Neal, Vice 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  
Bonita Y.M. Chang, Staff Attorney  
Kee M. Campbell, Staff Attorney  
Pat Mukai, Secretary

**CALL TO ORDER**

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

**Agenda Item No. I: Consideration and Approval of the Minutes of the March 17, 2017, Meeting**

The draft minutes for March 17, 2017, stated that Executive Director Gluck planned to ask the Attorney General's office about guidelines for the censorship of comments posted on a state Facebook page. Commissioner DeGuzman asked Executive Director Gluck whether he contacted the Attorney General's office about this.

Executive Director Gluck replied that he spoke to Deputy Attorney General Robyn Chun, who provided him with the State's social media policy. Commissioner DeGuzman expressed concern about the use of staff resources to maintain a Facebook page in addition to a website. Executive Director Gluck said that he was more inclined to spend staff time working to make our website more helpful.

Commissioner Tschumy made and Commissioner Wood seconded a motion to approve the minutes of the March 17, 2017, Sunshine Law meeting. The motion carried unanimously (Grauly, DeGuzman, Tschumy, and Wood voting; O'Neal abstaining).

### **Agenda Item No. II: Consideration and Approval of the Executive Session Minutes of the March 17, 2017, Meeting**

Commissioner Tschumy made and Commissioner Wood seconded a motion to approve the minutes of the March 17, 2017, Executive Session. The motion carried unanimously (Grauly, DeGuzman, Tschumy, and Wood voting; O'Neal abstaining).

### **Agenda Item No. III: Executive Director's Report**

#### 1. Education / Training Report

Executive Director Gluck said that staff has a very busy training schedule. He referred to upcoming training sessions on the neighbor islands and on Oahu in Kapolei.

#### 2. Guidance and Assignment Statistics

Executive Director Gluck said that staff is busy with requests for guidance and other matters and is also trying to close out many cases.

#### 3. 2017 Financial Disclosures

Executive Director Gluck said that May 31 is the filing deadline for financial disclosure filers (other than legislators). He said about a third of the required disclosure forms have already been received.

#### 4. Financial Report for FY2016-2017 (Third Quarter Ending March 31, 2017)

a. Attachment 1: Fiscal Year 2016-2017 Third Quarter Report

b. Attachment 2: Fiscal Year 2016-2017 Projected Year-End Report

Executive Director Gluck said that the office is well under budget for the current fiscal year due to the following: (1) vacancies for the Executive Director's position for a month and for a staff attorney position for three months; (2) unused interstate travel

funds; (3) less than anticipated office rent; and (4) steps taken by staff to reduce costs for the office where possible. These savings will result in a substantial amount of money that will lapse to the general fund if not used. Executive Director Gluck explained that staff is planning to use some of this money to pay for: (1) new computers; (2) re-cabling work to convert the copy room into an office; (3) office furniture; and (4) airline tickets for the COGEL conference in December. Executive Director Gluck said that even with these expenditures, a substantial amount of unspent money will lapse back to the general fund. Executive Director Gluck said he felt the office should be frugal with the money received from the legislature and should return what is not needed. At the same time, he has asked staff to inform him if there are other things needed for the office that can be purchased now.

Commissioner DeGuzman expressed concern that if budget funds are not spent, it may signal that the Commission does not need the funds it has been given and the legislature may cut the Commission's budget. Executive Director Gluck said that the Commission's budget for the next fiscal year has already been approved by the legislature. He also said that if asked about this at a budget hearing, he will explain that much of the savings was due to staff vacancies and the office is now fully staffed. Commissioner DeGuzman said that if money is available, staff should get whatever is needed now such as upgraded printers, recording devices, and laptop computers. Executive Director Gluck explained that staff has been looking at these needs and is planning to purchase some of these items.

Chair Graulty asked whether money could be used to pay for anticipated neighbor island trips. Executive Director Gluck explained that staff has purchased airline tickets for neighbor island training sessions for the next fiscal year and will be purchasing airline tickets for the COGEL conference. He said that the Commission's budget for the next fiscal year also includes \$12,000 for interstate travel and \$8,500 for intrastate travel. Executive Director Gluck said he felt the Commission has a solid budget for the next fiscal year.

##### 5. Electronic Filing System Update

Executive Director Gluck said that by April 24, 2017, staff should learn which software platform is going to be procured by ETS for its login portal system. The Commission's contractor can then move ahead with any adjustments to meet the new system. Executive Director Gluck said there is still enough money under the Commission's contract to cover this work and staff is trying to move ahead with the project as quickly as possible.

## 6. Ethics Awards

Executive Director Gluck showed the Commissioners a draft of the award certificate for the House and the Senate. He said he planned to deliver both awards and issue a press release on Monday, April 24, 2017.

Vice Chair O'Neal asked whether any consideration was given to issuing an award certificate to each member of the House and Senate. Executive Director Gluck said that he could provide an individual certificate to any legislator who wants one. He said that similar awards would be given to other state agencies who achieve 100% compliance with the financial disclosure filing requirement and because there are 1,900 filers, he was a little concerned about the administrative burden of issuing individual certificates.

## 7. Miscellaneous Office Projects / Updates

Executive Director Gluck explained that he was implementing a new office policy to allow a de minimis use of office resources by the attorneys when engaged in pro bono services. He said the policy is modeled on a pro bono policy implemented by the Department of Commerce and Consumer Affairs for its attorneys.

Executive Director Gluck explained that different types of pro bono cases can be obtained from organizations such as the Legal Aid Society of Hawaii and Volunteer Legal Services Hawaii. Attorneys who take cases from these organizations are covered by the organizations' malpractice policies. He added that the Commission's attorneys would be prohibited from performing pro bono case work that conflicts with the work they perform for the Commission. The attorneys' pro bono work would be done on their own time.

Vice Chair O'Neal asked about the general rule that state resources cannot be used for private business. Executive Director Gluck explained that this is the general rule, but the Hawaii Supreme Court has also adopted a policy encouraging attorneys to engage in pro bono work. Executive Director Gluck said that agencies may allow a de minimis use of state resources by attorneys (such as the use of an office computer after work hours) for pro bono work because facilitating pro bono legal services by attorneys serves an important state purpose.

Executive Director Gluck said that he felt the new office policy on pro bono services was an administrative matter within his purview, but he wanted the Commission to be aware of the policy. Vice Chair O'Neal said that he agreed with having a written policy in place for the Commission's office.

#### **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 April 20, 2017.)

Executive Director Gluck explained that three of the Commission's substantive bills are still alive: (1) HB 508, which doubles the fines for ethics violations; (2) HB 511, which makes changes to the Lobbyists Law; and (3) HB 852, which makes it easier for the Commission to notify delinquent filers and increases financial disclosure fines. Executive Director Gluck said that HB 852 and HB 110 were scheduled for a conference committee hearing that afternoon. HB 110 provides supplemental funding for the legislative agencies, including the Commission. Staff is waiting for conference committee hearings to be scheduled for HB 508 and HB 511. Executive Director Gluck said that he communicated with the House and Senate Judiciary chairs about the bills and he was cautiously optimistic.

Chair Grauly asked about HB 511 and the number of bills lobbied upon which would trigger the lobbyist registration requirement. Executive Director Gluck replied that the bill does not have a specific number in it, but he informed the committee chairs that we recommend something in the range of three to five bills. He also suggested that if the conference committee cannot agree upon a number, they can excise the provision relating to the number of bills lobbied upon. He said that although he would like to see this provision remain in the bill because it is good public policy, he would rather it be taken out so that the bill can be passed.

Executive Director Gluck also reported on the status of HB 425 and HB 847, relating to UH technology transfer. He said that both bills are still alive and appear to be headed to conference committee.

Finally, Executive Director Gluck discussed HB 165, which makes changes to the Sunshine Law. He said that much of what is required by the bill, such as making board packets available to the public, is already being done by the Commission.

#### **Agenda Item No. V: 2017 COGEL Conference – Toronto, Ontario, Canada**

Executive Director Gluck informed the Commission that he, Associate Director Yoza, and Staff Attorneys Chock and Campbell will attend the COGEL conference. He said there is sufficient funding for any interested Commissioners to attend the conference. He asked that Commissioners inform staff if they would like to attend the conference.

## **Agenda Item No. VI: Agenda topics for May meeting**

Executive Director Gluck said that he would like to have a substantive discussion about the Commission's administrative rules at the May meeting. He said that staff has discussed the need for rules relating to gifts, fair treatment, lobbying, and updated contested case hearing procedures. He explained that he will either have a draft set of administrative rules for the Commission's review or he will ask the Commission to have a substantive discussion about the kinds of policies it would like to see in its administrative rules. He said that the Commission will have to hold a public hearing on the proposed rules and the rules will have to be reviewed by the Attorney General's office before they are submitted to the Governor for approval.

Commissioner DeGuzman felt that good administrative rules were needed, especially for the Commission's contested case hearings.

For the Commissioners' information only, Executive Director Gluck showed the Commission a new quick guide on gifts that staff drafted. Commissioners Wood and DeGuzman both complimented the new guide. Executive Director Gluck said that the guide is still in draft form and he will be going over the language to make sure it is sufficiently clear, especially with respect to the \$200 threshold for the gifts reporting requirement.

## **ADJOURNMENT OF SUNSHINE LAW MEETING**

At approximately 10:29 a.m., Commissioner Tschumy made and Vice Chair O'Neal seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Grauly, O'Neal, DeGuzman, Tschumy, and Wood voting).

The meeting was adjourned at 10:29 a.m.

Minutes approved on: May 18, 2017