

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, June 22, 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. Gaulty, Chair
David O'Neal, Vice Chair
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

Excused: Susan N. DeGuzman, Commissioner

CALL TO ORDER

The meeting was called to order at 10:10 a.m. by Chair Gaulty.

Agenda Item No. I: Consideration and Approval of the Minutes of the May 18, 2017, Meeting

Vice Chair O'Neal made and Commissioner Tschumy seconded a motion to approve the minutes of the May 18, 2017 Sunshine Law meeting. The motion carried unanimously (Gaulty, O'Neal, Tschumy, and Wood voting).

Agenda Item No. II: Consideration and Approval of the Executive Session Minutes of the May 18, 2017, Meeting

Commissioner Tschumy made and Commissioner Wood seconded a motion to approve the minutes of the May 18, 2017 Executive Session. The motion carried unanimously (Graulty, O'Neal, Tschumy, and Wood voting).

Agenda Item No. III: Executive Director's Report

Executive Director Gluck provided updated statistics on education and training, noting that there was high demand for trainings.

Regarding the 2017 Financial Disclosures, Executive Director Gluck stated that 112 Board and Commission members have still not filed their disclosures. Only one state employee has not yet filed a disclosure statement. Fine notices were sent via registered and certified mail shortly after the May 31, 2017 deadline, prompting numerous requests for the Commission to waive fines.

Executive Director Gluck reported that staff has been reviewing mock-ups of the forms to be used in the new electronic filing system, and is making steady progress on the electronic filing system.

Regarding staffing, Executive Director Gluck stated that Chuck Totto's employment ends on June 30, 2017, and that staff is grateful to Mr. Totto for his service.

Executive Director Gluck stated that staff continues to work on office storage and file space. The Commission's record retention policy is pending with the Speaker of the House of Representatives and the Senate President. Once the policy is signed, staff will shred outdated documents pursuant to that policy. Depending on cost, staff may also scan some files for electronic retention.

Vice Chair O'Neal asked what the oldest files on site were. Executive Director Gluck responded that staff currently has files from 1968, the inception of the State Ethics Commission. Executive Director Gluck stated that staff is working to sort through what it is required to keep by law, and items the Commission may wish to keep for historical purposes. Additionally, Executive Director Gluck stated that staff is cognizant of the expense, time, and space concerns involved in storing old paper files.

Chair Graulty inquired whether storage facilities are available while staff awaits the approval of the records retention policy. Executive Director Gluck informed Chair Graulty that staff has sent approximately 12 boxes to Hawaii Correctional Industries for scanning, and is awaiting the final invoice. Executive Director Gluck believes the final cost will be about \$100 per box and that there are approximately 200 boxes at the

Commission's office. Therefore, Executive Director Gluck believes that the best course is to wait for the approval of the records retention policy, and then store as little as possible off-site.

Vice Chair O'Neal asked whether any records were required to be maintained permanently under state law. Executive Director Gluck informed him that records of Commission meetings, pleading files for contested case hearings, advisory opinions, and records of actions taken by the Commission are retained permanently. "Attorney of the Day" records, travel records, and investigation files will be kept for ten years under the new records policy.

Executive Director Gluck stated that the investigator's office is almost complete and furniture is on the way.

Finally, Executive Director Gluck stated that, to celebrate the Commission's upcoming fiftieth anniversary, staff arranged for state employee paystubs to include a message about how to get ethics advice. Additionally, staff is ordering pens engraved with the Commission's contact information to pass out at trainings. A sample pen was shown to the Commissioners.

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At 10:21 a.m., Commissioner Wood made and Commissioner Tschumy seconded a motion to convene an Executive Session pursuant to Hawaii Revised Statutes ("HRS") § 92-5(a)(2) to discuss matters relating to the evaluation of employees or HRS § 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 (Graulty, O'Neal, Tschumy, and Wood voting).

All staff members left the meeting and the Commission met in Executive Session.

RECESS OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At 10:37 a.m., Commissioner Wood 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 (Graulty, O'Neal, Tschumy, and Wood voting).

With regards to the Executive Director's position description (Attachment 2 to the Executive Director's Report), the Commission discussed the following additional changes (underscored):

1. In the "Budget and Fiscal Operations" section on page 3, the Commission discussed adding the following underlined language: "oversees planning and preparation and management of the Commission's budget subject to Commissioners' approval."

Vice Chair O'Neal made and Commissioner Wood seconded a motion to approve the amendment. The motion carried unanimously (Graulty, O'Neal, Tschumy, and Wood voting).

2. In the fourth full sentence on page 3 in the "Budget and fiscal operations" section, the Commission discussed adding the following underlined language at the end of the sentence: "Oversees all fiscal operations of the office, including payroll and procurement of all goods and services in accordance with applicable laws subject to review upon Commissioners' request."

Vice Chair O'Neal made and Commissioner Wood seconded a motion to approve the amendment. The motion carried unanimously (Graulty, O'Neal, Tschumy, and Wood voting).

3. In the "Administration and Management" section on page 3, the Commission discussed adding the following underlined language: "and sets staff salaries subject to review upon Commissioners' request."

Commissioner Tschumy made and Vice Chair O'Neal seconded a motion to approve the amendment. The motion carried unanimously (Graulty, O'Neal, Tschumy, and Wood voting).

Executive Director Gluck stated that, in addition to the above amendments, staff had proposed others changes to the Executive Director's job description. Vice Chair O'Neal made and Commissioner Tschumy seconded a motion to approve all other suggested changes contained in Attachment 2 of the agenda. The motion carried unanimously (Graulty, O'Neal, Tschumy, and Wood voting).

Agenda Item No. IV: Request for Advisory Opinion – Consideration of Draft Deleted (Redacted) Version of Opinion Issued May 18, 2017

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At 10:41 a.m., Commissioner Wood made and Vice Chair O’Neal seconded a motion to convene an Executive Session pursuant to HRS § 92-5(a)(4) to consult with Commission’s attorneys on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities; 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, O’Neal, Tschumy, and Wood voting).

The Commission met in Executive Session.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At 10:44 a.m., Vice Chair O’Neal made and Commissioner Tschumy seconded a motion to adjourn the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (Graulty, O’Neal, Tschumy, and Wood voting).

Vice Chair O’Neal made and Commissioner Tschumy seconded a motion to approve the draft deleted advisory opinion as amended. The motion carried unanimously (Graulty, O’Neal, Tschumy, and Wood voting).

Agenda Item No. V: Legislative Update

Executive Director Gluck stated that the Commission’s bills (HB 508, HB 511, and HB 852) were signed into law by Governor Ige at a signing ceremony on the morning of June 22, 2017.

Executive Director Gluck informed the Commission that it appeared the Legislature would hold a special session to deal with the issue of rail in Hawaii. Executive Director Gluck stated that staff would monitor lobbying expenditures related to the special session.

ADJOURNMENT OF SUNSHINE LAW MEETING

At 10:46 a.m., Commissioner Wood made and Vice Chair O'Neal seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Graulty, O'Neal, Tschumy, and Wood voting).

The meeting was adjourned at 10:46 a.m.

Minutes approved on: July 20, 2017