

SUNSHINE LAW MEETING  
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Monday, October 2, 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  
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 K. Mukai, Secretary  
Patrick Lui, Computer Specialist

**CALL TO ORDER**

The meeting was called to order at 10:00 a.m.

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

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

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

Executive Director Gluck noted that the staff has been conducting many trainings, including on the neighbor islands, and many more trainings are scheduled for October. He referred to his report for guidance and assignment statistics. On financial disclosures, he provided some updated figures on outstanding disclosures: 18 active board/commission members; 6 initial board/commission members; and one initial disclosure for an employee.

Executive Director Gluck referred to the Commission's financial audit report for FY 2015-2016 and noted that staff had already addressed several minor items highlighted by the auditors. In response to a question by Chair Gaulty, Executive Director Gluck explained that the private firm that conducted the audit was retained by the State Auditor.

Executive Director Gluck presented the Commission with an updated 2017-2018 Q1 financial report. He explained some of the Q1 expenses (including a charge for Westlaw to upload all of the Commission's Advisory Opinions to its databases, allowing anyone with a Westlaw account to search the Commission's past decisions easily).

The Commission paused its discussion of the Q1 financial report and turned to a presentation on the Commission's electronic filing system for financial disclosures and gifts disclosures. Computer Specialist Lui and Staff Attorney Chang demonstrated the system, still under development but nearing completion, and answered the Commissioners' questions regarding the system's capabilities.

The Commission resumed its discussion of the Q1 financial report. Executive Director Gluck provided information on some of the expenditures and explained that the Commission is on track with its budget for the rest of the fiscal year.

Executive Director Gluck stated that, in the November meeting, he anticipated being prepared to discuss additional administrative rule provisions as well as possible proposed legislation and the Commission's proposed budget for the 2018 legislative session.

Executive Director Gluck further reported that, in addition to the day-to-day work of the Commission, the staff was engaged in four large-scale projects: drafting proposed administrative rules, developing and implementing an electronic filing system, reviewing the Commission's paper files pursuant to a newly implemented records retention system, and developing a web-based training system.

### **Agenda Item No. III: Administrative Rules**

Executive Director Gluck suggested that the staff propose sections of draft rules for the Commission's consideration each month, with a final review after all the sections have been completed, after which the Commission would submit the entire package to the Department of the Attorney General for review. For today's meeting, Executive Director Gluck presented proposed edits to chapters 1, 2, and 3 for the Commission's consideration.

Chair Graulty asked the staff to explain the proposed definition of "good cause" for waiver of a penalty for failing to file a financial disclosure by the relevant statutory deadline. Executive Director Gluck explained that this phrase was not defined by the legislature, such that the Commission has some discretion to better define the phrase by administrative rule.

Commissioner DeGuzman suggested multiple revisions. The Commissioners also discussed the procedure for reviewing these proposed rules.

At 11:00 a.m., Commissioner DeGuzman made and Vice Chair O'Neal seconded a motion to recess the Sunshine Law meeting and move into the Adjudicatory meeting. The motion carried unanimously (Graulty, O'Neal, De Guzman, Tschumy, and Wood voting).

The Commission recessed the Adjudicatory meeting and reconvened the Sunshine Law meeting at 11:20 a.m.

The Commission continued its discussion of proposed administrative rules. Commissioner DeGuzman suggested additional revisions. The Commission again discussed the procedure for reviewing the proposed rules. Chair Graulty suggested forming a Permitted Interaction Group (PIG) to review and edit the proposed rules drafted by staff. The revised draft will then be presented to the full Commission at a duly convened Commission meeting for additional edits.

Commissioner DeGuzman made and Commissioner Wood seconded a motion to form a PIG comprised of Chair Graulty and Commissioner DeGuzman. The motion carried unanimously (Graulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

Chair Graulty recognized Corrie Tanida, Executive Director of Common Cause, who asked a question regarding proposed changes to the administrative rule addressing the Commission's review of financial disclosure statements. Executive Director Gluck explained that the Commission would continue to review disclosure statements for conflicts of interests, but that staff recommended amending the rules to make clear that Commission staff did not need to review a financial disclosure statement prior to accepting the document for filing.

#### **Agenda Item No. IV: Evaluation of Executive Director**

Chair Gaulty stated that Executive Director Gluck was hired on August 1, 2016, and the Commission conducted a 90-day performance review. Chair Gaulty suggested that the Commission conduct Executive Director Gluck's performance review at the next Commission meeting.

Chair Gaulty suggested that the Commission establish a PIG to recommend an evaluation procedure for the Commission. Commissioners Wood and Tschumy volunteered to develop the procedure. Executive Director Gluck stated that, while the procedure was entirely up to the Commission and the PIG, he recommended that the Commission consult with staff in conducting the evaluation.

Chair Gaulty deferred to the PIG to develop the procedure for conducting the evaluation. Chair Gaulty stated that he expected the PIG to solicit feedback from staff and that the PIG would report back to the Commission at its November meeting. Associate Director Yoza provided a brief overview of the process used to evaluate the previous Executive Director. The Commissioners discussed the process used at the 90-day mark for Executive Director Gluck as well as the process used for the previous Executive Director.

Vice Chair O'Neal made and Commissioner DeGuzman seconded a motion to set up a PIG comprised of Commissioner Tschumy and Commissioner Wood to guide the Commission through the process of the annual performance review of the Executive Director. The motion carried unanimously (Gaulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

Commissioner Wood stated that she and Commissioner Tschumy would develop an evaluation process and report back to the Commission.

#### **ADJOURNMENT OF SUNSHINE LAW MEETING**

At 11:54 a.m., Vice Chair O'Neal made and Commissioner Wood seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Gaulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

The meeting was adjourned at 11:54 a.m.

Minutes approved on: November 16, 2017