

SUNSHINE LAW MEETING  
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, November 16, 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  
Gil Serrano, Intern  
Pat K. Mukai, Secretary

**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 October 2, 2017, Meeting**

Vice Chair O'Neal made and Commissioner Tschumy seconded a motion to approve the minutes of the October 2, 2017 Sunshine Law meeting. The motion carried unanimously (Graulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

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

### *Education / Training Report*

Executive Director Gluck reported that, in October alone, staff conducted 10 trainings for 700 individuals. In calendar year 2016, staff conducted 15 trainings for more than 1,500 individuals; in calendar year 2017 to date, staff conducted 43 trainings for more than 2,300 individuals. He noted that Associate Director Yoza and Staff Attorney Chock have been working hard on the on-line training to reach more individuals.

### *Guidance and Assignment Statistics – September* *Guidance and Assignment Statistics - October*

The Commissioners did not raise any questions on the guidance and assignment statistics for September and October.

### *Miscellaneous Office Projects / Updates*

#### *1. Office Lease*

Executive Director Gluck reported that he and the realtor are still working with the landlord on the terms of the lease renewal. Commissioner DeGuzman asked a question regarding “deferred” rental payments, and Executive Director Gluck explained that this term essentially meant that the landlord would give the Commission one “free” month a year during each year of the lease.

## **Agenda Item No. III: Proposed Budget for FY 2018-2019**

Attachment 1: Proposed budget, FY 2018-2019

Executive Director Gluck presented a proposed budget for FY 2018-2019 to the Commission. He explained that the proposed budget asks for a modest increase for staff salaries and an increase for computer consulting services to assist with implementation of the Commission's electronic filing system. Chair Gaulty asked about the excess funds that lapsed to the General Fund and whether this budget more accurately reflected the Commission's needs; Executive Director Gluck explained that the bulk of the excess funds arose because of staff shortages and that the Commission would likely use nearly all the funds in the proposed budget.

## **Agenda Item No. IV: Proposed Legislation for 2018 Legislative Session**

Attachments 1-8: Proposed bills for 2018 legislative session

- (1) Bill to amend Hawaii Revised Statutes (HRS) section 28-8.3 to clarify that the State Ethics Commission may employ its own attorneys.
- (2) Bill to restore previous statutory language in HRS section 84-13 protecting legislators when carrying out a “legislative function”; and to clarify HRS sections 84-13 and 84-14 with respect to the financial disclosure and conflicts of interests requirements for task force members.
- (3) Bill to amend HRS section 97-7 by removing the requirement that violations of the Lobbyists Law, HRS Chapter 97, must be “willful” and clarifying that the resolution of charges upon agreement by the State Ethics Commission and alleged violators may include payment of administrative fines and restitution.
- (4) Bill to amend HRS section 84-43 to remove the requirement that the State Ethics Commission’s mandatory ethics training course be held in January of each year and that the course last at least two hours.
- (5) Bill to amend HRS section 84-31(b) by clarifying that the State Ethics Commission’s investigations shall be confidential but that the Commission may refer any matter to any other governmental law enforcement agency.
- (6) Bill to amend HRS section 84-17.5 by requiring the State Ethics Commission to maintain financial disclosure statements for a period of six years after filing rather than for a period of six years beyond the expiration of a state official’s term of office.
- (7) Bill to amend HRS section 84-39 to give the State Ethics Commission the authority to order payment of restitution after a contested case hearing.
- (8) Bill to amend HRS section 84-11.5 to clarify the requirements for filing a gifts disclosure statement.

Executive Director Gluck explained that, in his view, because the Legislature passed significant ethics and lobbying legislation last session, the Legislature would be more likely to pass more “housekeeping” measures this year rather than large, substantive changes to the Ethics Code. He stated his belief that these proposals would be very helpful to the Commission and the public.

Commissioner DeGuzman offered some proposed edits to bill #3.

Vice Chair O'Neal made and Commissioner Wood seconded a motion to approve the proposed legislation for the 2018 legislative session as amended. The motion carried unanimously (Grauly, O'Neal, DeGuzman, Tschumy, and Wood voting).

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

Report from Permitted Interaction Group ("PIG") regarding staff's suggested amendments to Hawaii Administrative Rules, Title 21, Chapters 4-6

Attachment 1: Proposed administrative rules, chapters 4-6

Chair Grauly reported that the PIG has not yet had an opportunity to evaluate the proposed administrative rules, and the matter was deferred.

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

Report from Permitted Interaction Group ("PIG") regarding evaluation of Executive Director Daniel Gluck

Associate Director Yoza reviewed the procedures the Commission must follow for the use of a PIG. Three meetings are required: at the first meeting, the Commission must establish the PIG and direct what the PIG is authorized to do; at the second meeting, the PIG submits its report to the full Commission, but there shall be no discussion or action taken at that meeting; at the third meeting, the Commission can discuss and act on the PIG's report. Associate Director Yoza said that the Commission established the PIG (whose members are Commissioners Tschumy and Wood) at its last meeting and authorized the PIG to develop the procedures and instruments for evaluating the Executive Director. She said that at today's meeting, the Commission should receive the PIG report without taking any action or discussing the matter. At the Commission's next meeting in December, the Commission can discuss and act on the PIG report.

Commissioners Tschumy and Wood presented the PIG report to the Commission, which included the evaluation instrument for the Commissioners and a SurveyMonkey form for staff. Commissioner Tschumy reported that the SurveyMonkey survey is substantially different from surveys used in the past.

Associate Director Yoza explained that if the Commission approves the evaluation procedures and instruments at its next meeting, the Commissioners can thereafter complete the evaluation form and ask staff to fill out the SurveyMonkey form.

Commissioner Wood said that in the future and in light of these necessary steps, the Commission should start its evaluation process two or three months earlier.

Chair Graulty said that no action would be taken at this meeting other than to accept the PIG report. He said that action with respect to the report will be taken at the next Commission meeting in December.

The Commission decided to move the date of its December meeting up by one week, to December 14, 2017, at 10:00 a.m.

### **Agenda Item VII: Setting the 2018 Ethics Commission Meeting Calendar**

Attachment 1: 2018 Meeting Calendar

The Commission agreed to set meetings on February 22 and March 22, 2018, rather than February 15 and March 15; the Commission also agreed to hold the December meeting on December 13, 2018, rather than December 20, 2018.

Commissioner Wood made and Commissioner DeGuzman seconded a motion to approve the 2018 meeting calendar as amended. The motion carried unanimously (Graulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

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

Vice Chair O'Neal moved and Commissioner Wood seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Graulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

The meeting was adjourned at 10:23 a.m.

Minutes approved on: December 14, 2017