

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, April 19, 2018

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

Reynard D. Graulty, Chair
Ruth D. Tschumy, Vice Chair
David O'Neal, 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
Pat K. Mukai, Secretary

Excused: Susan N. DeGuzman, Commissioner

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 March 29, 2018, Meeting

Vice Chair Tschumy made and Commissioner Wood seconded a motion to approve the minutes of the March 29, 2018 Sunshine Law meeting. The motion carried unanimously (Graulty, Tschumy, O'Neal, and Wood voting).

Agenda Item II: Consideration and Approval of the Executive Session Minutes of the March 29, 2018, Meeting (Regarding Evaluation of Executive Director Daniel Gluck)

Vice Chair Tschumy made and Commissioner O'Neal seconded a motion to approve the minutes of the March 29, 2018 Executive Session. The motion carried unanimously (Graulity, Tschumy, O'Neal, and Wood voting).

Agenda Item No. III: Executive Director's Report

Education / Training Report

Executive Director Gluck reported that many training sessions will be coming up in the next few months, including sessions on the neighbor islands.

Guidance and Assignment Statistics – March 2018

Attachment 2: 2018 Guidance and Assignment Statistics

Executive Director Gluck referred to the attachment and said that work is progressing steadily.

Financial Report for FY 2017-2018 (Quarter Ending March 31, 2018)

Attachment 3: Third Quarter Financial Report

Executive Director Gluck reported that the Commission is well under budget for the current fiscal year. He said that staff will be using approximately \$12,000 in this fiscal year, and an additional \$15,000 in the next fiscal year, for computer consulting services to assist with the electronic filing system. He also said that funds from this fiscal year can be used to pay for travel expenses for the 2018 COGEL (Conference on Governmental Ethics Laws) conference. He said that there are also excess funds in the budget for office furniture and equipment, and that staff is assessing the office needs in this area.

Executive Director Gluck also reported that in the past few years, the Commission has prepaid office rent for a quarter of the year, but he did not believe it was necessary to prepay this much rent because the Legislature has consistently appropriated funds to cover the office rent. Executive Director Gluck proposed that the office prepay one month's rent to cover any unanticipated fees and allow more money to lapse back to the general fund. There were no objections to this by the Commissioners.

Miscellaneous Office Projects / Updates

- a. Electronic Filing System*
- b. 50th Anniversary Events*
 - i. Report on/approval of expenditures*

Attachment 4: Expenditure Statement

Executive Director Gluck referred to the spreadsheet showing the expenditures for the Commission's 50th Anniversary ceremony at the Capitol. He said that the Commission should continue to discuss whether to use state funds or contributions from individuals to pay for these expenditures. Executive Director Gluck explained that state funds can be used to pay for lei purchased for protocol purposes, and paper goods and drinks that can be used for Commission meetings. He said that he believed it was also appropriate to use state funds to pay for the food that was purchased because it was for an official event for all members of the Legislature and other invited guests. He suggested that a modest contribution of \$20 by each of the Commissioners and the Executive and Associate Directors be accepted to help offset some of the food costs.

Chair Graulty said that he was pleased to see that the food served at the reception was very modest. He also said that he believed this was an office function and he had no problem approving the amount spent for this event.

Commissioner O'Neal asked whether there is a line item in the budget for this type of expenditure by the Commission. Executive Director Gluck explained that there is a category in the budget for Commission meetings, which includes money for Commission lunches. He said there is more than enough money in this category of the budget to cover the 50th Anniversary food costs.

Chair Graulty asked that Commissioners vote to approve the use of Commission funds to reimburse staff for the 50th Anniversary expenditures and that contributions of \$20 be accepted from each of the Commissioners and the Executive and Associate Directors to help defray some of the expenses.

Commissioner O'Neal made and Vice Chair Tschumy seconded a motion to approve the payment of expenditures for the Commission's 50th Anniversary as summarized by Chair Graulty. The motion carried unanimously (Graulty, Tschumy, O'Neal, and Wood voting).

Agenda Item No. IV: COGEL – Philadelphia, December 9-12, 2018

Discussion of attendance by Commissioners.

Executive Director Gluck reported that there is sufficient money in the budget to prepay travel expenses for the 2018 COGEL conference in Philadelphia. Several staff attorneys are planning to attend the conference. He asked Commissioners to inform staff if they would like to attend the conference so that travel bookings can be made now. Chair Gaulty and Vice Chair Tschumy said that they would like to attend the conference; Commissioner Wood said that if she is reappointed to another term, she also would like to attend the conference.

Agenda Item No. V: Legislative Update

Executive Director Gluck reported that S.B. No. 872, which was introduced last year, appears to have been revived. The bill places the Commission on the list of agencies that can hire their own attorneys. The bill passed all committees except House Finance last year; a few weeks ago, House Finance heard and passed the bill and it is now in conference committee. Executive Director Gluck reported that the Commission advocated for other bills, which were mainly housekeeping measures, and they are all dead. He also reported on the status of ethics bills that were introduced by others.

Chair Gaulty said that it is difficult for the Commission to get ethics legislation passed because the Commission does not have a strong constituency. Executive Director Gluck agreed and said that the Commission would need to spend more time on coalition building if it wants to advocate for more significant legislation to be passed. He said that the Commission can discuss what legislation that might be at a future meeting.

Agenda Item No VI: Administrative Rules

Report from Permitted Interaction Group regarding proposed amendments to Hawaii Administrative Rules, Title 21, Chapters 7-9.

Chair Gaulty said that he and Commissioner O'Neal have submitted a Permitted Interaction Group ("PIG") report on Chapters 7-9 of the proposed administrative rules. He explained that the PIG report will be considered and voted upon at the next Commission meeting. Executive Director Gluck said that the last chapter of the proposed rules, Chapter 10, is almost completed and will be submitted to the PIG shortly. Chair Gaulty said that after Chapter 10 has been considered, he will entertain a motion by any Commissioner for reconsideration of the Commission's actions with respect to any of the previously considered proposed rules.

Commissioner Wood made and Vice Chair Tschumy seconded a motion to accept the report from the Permitted Interaction Group regarding proposed amendments to Hawaii Administrative Rules, Title 21, Chapters 7-9. The motion carried unanimously (Graulty, Tschumy, O'Neal, and Wood voting).

Agenda Item No. VII: Staff Evaluations of Commission

Results of survey of staff members regarding performance of the Commission and Commissioners.

The Commission discussed the results of the staff survey regarding the performance of Commissioners. Commissioner O'Neal expressed his appreciation to staff for taking the time to respond to the survey. Executive Director Gluck replied that staff appreciated being asked to provide feedback to the Commissioners.

Vice Chair Tschumy said that she apologized if the Commissioners' interactions with each other at meetings made any of the staff feel uncomfortable. She said that the Commissioners would try to do better.

Vice Chair Tschumy also responded to feedback from staff about Commissioners' proposed edits to documents. She said that comments regarding substantive changes to a document should go to the Commission for discussion. She suggested that comments regarding non-substantive or stylistic changes be given by Commissioners directly to the staff member who drafted the document and it will be up to the staff member to decide whether the document should be revised. Vice Chair Tschumy said that this practice will save time for staff and Commissioners. The other Commissioners agreed with this suggested procedure. Commissioner Wood said she was happy to see that staff generally welcomes editing suggestions by Commissioners.

Commissioner O'Neal said that he would leave it up to Executive Director Gluck to decide whether Commissioners with stylistic edits should go to him or directly to the staff member who drafted the document.

Commissioner O'Neal said that he had questioned before whether it is the Commissioners' role to recommend how staff should draft legal documents. He said that he did not feel qualified to make such recommendations and he asked whether the procedure being discussed would apply to all Commissioners in the future. Executive Director Gluck said that any Commissioner with comments about a document is encouraged to provide feedback to staff and that Commissioners should not discount their own views or opinions. Chair Graulty agreed and said that the procedure will apply to all Commissioners. Chair Graulty also noted that it is staff's job to explain things in a way that laymen can understand and that Commissioners do not need legal expertise to make stylistic comments about a document. He also said that it would be up to staff to decide whether to accept or decline suggested stylistic edits.

The Commissioners agreed that they did not want to review stylistic changes to documents. Commissioner O'Neal said that if the changes are stylistic, staff can approve and make the changes without sending a redlined draft to the Commissioners to review.

Executive Director Gluck explained that staff wants to make sure Commissioners see the final version of documents that they are signing. He said that draft documents will be provided to all Commissioners at the same time for review and any Commissioner can provide stylistic comments to staff. He said that if Commissioners prefer not to see redlined drafts for stylistic edits (such as corrections for typographical errors, punctuation, grammar, and other non-substantive changes), then when staff presents a document in final form to the Commission, staff will explain that there were stylistic changes but no substantive changes to the document. The Commissioners said they preferred this procedure for dealing with stylistic changes to documents.

Executive Director Gluck also informed Commissioners that in the survey, staff said they were pleased that Commissioners review the meeting folder materials and come very prepared to Commission meetings.

ADJOURNMENT OF SUNSHINE LAW MEETING

At 10:33 a.m., Vice Chair Tschumy made and Commissioner O'Neal seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Graul, Tschumy, O'Neal, and Wood voting).

The meeting was adjourned at 10:33 a.m.

Minutes approved on: May 17, 2018