

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, June 21, 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
Susan N. DeGuzman, Commissioner
David O'Neal, Commissioner
Melinda S. Wood, Commissioner

State Ethics Commission Staff

Daniel M. Gluck, Executive Director
Susan D. Yoza, Associate Director
Virginia M. Chock, Staff Attorney
Bonita Y.M. Chang, Staff Attorney
Kee M. Campbell, Staff Attorney

CALL TO ORDER

Chair Graulty called the meeting to order at 10:00 a.m.

The Commission took up Agenda Item No. IV at the start of the meeting.

Agenda Item No. IV: Recognition of Commissioner David O'Neal

Chair Graulty and Vice Chair Tschumy thanked Commissioner O'Neal for his service on the State Ethics Commission and said that he will be missed. Chair Graulty presented Commissioner O'Neal with a resolution from the Commission recognizing Commissioner O'Neal's contributions to ethics in government.

Agenda Item No. I: Consideration and Approval of the Minutes of the May 17, 2018 Meeting

Executive Director Gluck said that a formatting correction was made to the draft minutes.

Commissioner O'Neal made and Vice Chair Tschumy seconded a motion to approve the minutes of the May 17, 2018 Sunshine Law meeting, as amended. The motion carried unanimously (Graulty, Tschumy, DeGuzman, O'Neal, and Wood voting).

Agenda Item No. II: Executive Director's Report

1. *Education / Training Report*

Executive Director Gluck reported that training sessions have been going well.

2. *Guidance and Assignment Statistics – May 2018*

Attachment 2: 2018 Guidance and Assignment Statistics

Executive Director Gluck reported that staff has been very busy with work.

3. *Miscellaneous Office Projects / Updates*

a. *Office Improvements*

b. *COGEL attendance*

Executive Director Gluck reported that staff is working on budget items for the end of the fiscal year. He estimated that approximately \$12,000, or about 1% of the Commission's budget, will be unspent and will lapse back to the State. He said that staff has used this fiscal year's funds to pre-pay certain office expenses and to pay for consulting services to help with the e-filing project, airline tickets for the COGEL conference, and inter-island airline tickets.

Executive Director Gluck said that he and Chair Graulty, as well as Staff Attorneys Chang and Campbell, are planning to attend the COGEL conference. Vice Chair Tschumy and Commissioner Wood have also expressed interest in attending the conference. Executive Director Gluck said that he was asked to be a presenter at one of the COGEL sessions on sexual harassment.

Agenda Item No III: Administrative Rules

1. Discussion of Report from Permitted Interaction Group (“PIG”) regarding proposed amendments to Hawaii Administrative Rules, Title 21, Chapter 10

Attachment 1: PIG Report and Draft of Chapter 10

Attachment 2: Public Testimony on Chapter 10

Chair Graulty acknowledged public testimony that was received from Tim Lyons regarding Chapter 10 (Lobbying) of the proposed administrative rules. Commissioner O’Neal asked the Executive Director to comment on some of the issues raised by Mr. Lyons.

Executive Director Gluck said that one of the issues raised was whether an accrual versus cash basis of accounting should be used to report lobbying expenditures. He explained that the public’s interest is in knowing what is being spent to influence legislators in as close to “real time” as possible. He said the accrual basis for reporting is closer to real time because some lobbyists are not paid for their services until after the legislative session. Executive Director Gluck did not believe that requiring an accrual basis for reporting expenditures would be overly burdensome. Commissioner O’Neal agreed. Chair Graulty said that if the goal is to provide transparency for the public, the accrual system must be used. Commissioner DeGuzman said that the lobbying rules will provide more structure to the reporting requirements and although this may be difficult for some lobbyists to accept at first, they will adjust.

Executive Director Gluck said that Mr. Lyons also suggested that “days” be defined as working days. The Lobbyists Law does not define this term. Chair Graulty said that the legislature works on Saturdays, and that “working days” for the legislature could include Saturdays. Commissioner DeGuzman said there might be a statute that generally defines “days” as calendar days. Executive Director Gluck said that staff will check into this.

Mr. Lyons also raised a point about the requirement that lobbyists and their clients file joint lobbying reports. Executive Director Gluck said that many lobbyists are already preparing their clients’ reports and that requiring joint reports and making filers jointly responsible will help ensure that reports are filed on time.

Vice Chair Tschumy made and Commissioner Wood seconded a motion to approve the proposed Hawaii Administrative Rules (“HAR”), Title 21, Chapter 10. The motion carried unanimously (Graulty, Tschumy, DeGuzman, O’Neal, and Wood voting).

2. Discussion of proposed amendments to Hawaii Administrative Rules, Title 21, Chapters 1-10

Attachment 3: Draft of Chapters 1-10 (clean version)

Attachment 4: Draft of Chapters 1-10 (redlined version)

Executive Director Gluck explained that additional changes, most of which were stylistic and grammatical, were made to Chapters 1-10 of the proposed rules. He said that more changes should be expected as the rules undergo further review by the Department of the Attorney General.

Executive Director Gluck referred to some of the changes that were made to the latest draft. He highlighted the following changes: HAR § 21-2-4(d) (“alleged violator” changed to “respondent”); § 21-5-12 (“respondent” changed to “alleged violator”); § 21-5-12(c)(1) (provides that in settlement agreements, the Commission reserves the right to investigate and charge the alleged violator regarding matters not raised in the settlement agreement “unless the agreement expressly provides otherwise.”); § 21-8-2 (title of section changed to, “Acquiring New Conflicts of Interests; Reason to Believe”).

Commissioner O’Neal made and Commissioner DeGuzman seconded a motion to approve the proposed amendments to HAR Title 21, Chapters 1-10, as amended, for transmittal to the Department of the Attorney General for review. The motion carried unanimously (Graulty, Tschumy, DeGuzman, O’Neal, and Wood voting).

Commissioner DeGuzman thanked Executive Director Gluck and staff for their work on the administrative rules.

ADJOURNMENT OF SUNSHINE LAW MEETING

At 10:35 a.m., Commissioner DeGuzman made and Vice Chair Tschumy seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Graulty, Tschumy, DeGuzman, O’Neal, and Wood voting).

The meeting was adjourned at 10:35 a.m.

Minutes approved on: July 19, 2018