

SUNSHINE LAW MEETING
MINUTES OF THE HAWAI'I STATE ETHICS COMMISSION

STATE OF HAWAI'I

Date: June 18, 2020

Time: 9:00 a.m.

Location: Held via Zoom video and audio conference

Present: State Ethics Commission Members

Reynard D. Grauly, Chair (via video conference)
Ruth D. Tschumy, Vice Chair (via video conference)
Susan N. DeGuzman, Commissioner (via video conference)
Melinda S. Wood, Commissioner (via video conference)
Wesley F. Fong, Commissioner (via video conference)

State Ethics Commission Staff

Daniel M. Gluck, Executive Director (via video conference)
Susan D. Yoza, Associate Director (via video conference)
Nancy C. Neuffer, Staff Attorney (via audio conference)
Virginia M. Chock, Staff Attorney (via video conference)
Bonita Y.M. Chang, Staff Attorney (via audio conference)
Kee M. Campbell, Staff Attorney (via video conference)
Patrick Lui, Computer Specialist (via audio conference)

Members of the Public

Bob Toyofuku (via audio conference)
Sandy Ma (via video conference)

CALL TO ORDER

Chair Grauly called the meeting to order at 9:01 a.m. and confirmed that all Commissioners and staff were present via videoconference or audio conference.

Chair Grauly requested that any members of the public joining the meeting via videoconference or telephone state their presence to the Commission.

Agenda Item No. I: Consideration and Approval of the Minutes of the May 21, 2020 Meeting

Commissioner Fong made and Commissioner DeGuzman seconded a motion to approve the minutes of the May 21, 2020 Sunshine Meeting. The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).

Executive Director Gluck suggested that members of the public be asked if they would like to testify after each agenda item to ensure no one is missed. Chair Grauly asked whether there were any members of the public who wished to testify on the minutes of the May 21, 2020 meeting. No one from the public indicated a desire to testify on this item.

Agenda Item No. II: Executive Director's Report

Education / Training Report

Executive Director Gluck explained that in-person training sessions remain on hold due to COVID-19 restrictions. Webinar-type training is being explored as a possibility.

Guidance and Assignment Statistics – May 2020

The Commission did not have any questions or further discussion regarding the Guidance and Assignment Statistics for May 2020.

After discussing the agenda item regarding the Ethics Survey of State Employees, Commissioner Wood inquired about training figures not adding up in the attachments in the meeting folder materials. Computer Specialist Patrick Lui explained that the numbers of on-line trainees did not match because they were taken one week apart, with the figures in Attachment 3 (910 trainees) pulled right before the Commission meeting folder materials were sent to the Commissioners.

Ethics Survey of State Employees

Executive Director Gluck shared that he is working with Hui Chen, Chief Integrity Advisor with the Attorney General's office, and professors from the University of Hawai'i Shidler Business School (UH) on a research survey to be conducted of state employees on ethics issues. Executive Director Gluck stated that UH would like a written agreement between the Commission and the researchers, and that he is waiting for a draft from Professors Ghumman and Nguyen. He said the professors intend to publish the results when the study is complete.

Executive Director Gluck stated that the Legislature does not have any policies regarding research studies such as this, and he is not aware of any Commission

policies that would apply here. Executive Director Gluck said he believed that any UH policies, including review by its Institutional Review Board, would satisfy concerns that the Commission may have about the study.

Commissioner Fong asked who the UH professors are and whether they are being compensated by the Commission or UH. Executive Director Gluck said that the professors are Sonia Ghumman and Hannah-Hanh D. Nguyen, and they are doing research as part of their work with UH. Commissioner Fong asked if Dean Roley was aware of this project. Executive Director Gluck said he did not know, but that Dean Qimei Chen was aware of the project. Commissioner Fong wanted to confirm that the appropriate Dean was aware of the project.

Executive Director Gluck shared that he and Chief Integrity Officer Chen are also collaborating on an anti-corruption hotline and website to receive complaints of fraud, waste, and abuse. The Commission staff and the Department of the Attorney General will review the incoming complaints and will route items to the appropriate agencies. Commissioner Fong mentioned that the Legislature is conducting a similar fraud project, and he advised that staff ensure they are not duplicating efforts.

Financial Report for FY 2019-2020 (preliminary year-end report)

Executive Director reported that the office has purchased a new laptop and iPad to facilitate remote meetings, but that staff are trying to limit expenses as much as possible to return money to the General Fund. He stated that the office has pre-paid two months of rent – to account for unexpected building expenses, such as increases in common area maintenance fees – and that staff has negotiated lower rates for various software and subscription services.

Commissioner Fong asked if next year's budget will allow for attendance at the COGEL conference. Executive Director Gluck reported that there are funds allocated for interstate travel, but the next COGEL conference will be held online only and there will be no registration fee.

Miscellaneous Office Projects / Updates

Executive Director Gluck said that the office carpets have been cleaned; there was no charge, as it was included as part of the lease.

In response to the spike in COVID-19 cases, Executive Director Gluck stated that he was encouraging staff to revert to working remotely. Arrangements have been made to limit the number of employees who work in the office and have them spaced apart.

Executive Director Gluck explained that the deadline for financial disclosures was on June 1, 2020 or June 16, 2020 for filers who were granted an extension. He said that out of approximately 1,900 filers, only 28 filers – 4 employees and 24 board members – were still outstanding. He praised and thanked staff for their diligent work in

getting people to file and guiding them through the e-filing system. He stated that staff was planning to publish the list of late filers later that day, but that this list of late filers was substantially smaller than the same late-filer list from last year.

Chair Grauly asked if there were any questions regarding the Executive Director's report. There were none.

Agenda Item No. III: Proposed Administrative Rules

A. Testimony received from Bob Toyofuku, Esq., on 5/20/20

Chair Grauly asked if there were any questions or additional public testimony regarding Bob Toyofuku's letter received on 5/20/20. Mr. Toyofuku thanked the Commission for allowing him to participate and had no additional comments or testimony.

B. Staff memorandum in response to Mr. Toyofuku's testimony

Chair Grauly said that staff's memorandum has three suggestions: (1) to delete the second sentence of the definition of direct lobbying, in proposed Hawai'i Administrative Rules ("HAR") § 21-10-1; (2) to add the word "total" to add clarification about total expenditures, in § 21-10-7(b)(1)(C); and (3) to fix the grammatical error by deleting the letter "s" in the word "purposes" so it is not plural, in § 21-10-9(c).

Chair Grauly asked Executive Director Gluck if there was anything else he wanted to add. Executive Director Gluck said that there was some discussion on the rules during the last meeting, but there were technical difficulties and he wanted to check if there were additional comments the Commission wanted to add to the record.

Chair Grauly questioned the addition of the word "total" to § 21-10-7(b)(1)(C), as he believed it was redundant. Executive Director Gluck said that while the additional word is somewhat redundant, he believed it helped to clarify the proposed rule.

Commissioner DeGuzman said she believed, as a precaution, that adding "total" would help with clarification.

Mr. Toyofuku gave an example in which he were to receive \$2,000 a month, or \$24,000 a year, to lobby. He stated that, after speaking with Executive Director Gluck, his (Mr. Toyofuku's) understanding was that he would be required to report the entire amount as an expenditure for the purpose of lobbying. Mr. Toyofuku stated that this may be confusing for some lobbyists.

Chair Grauly asked if there were any more questions for Executive Director Gluck or Mr. Toyofuku regarding their suggestions. There were none.

Commissioner Fong made and Commissioner DeGuzman seconded a motion to approve the deletion of the second sentence of the definition of “Direct lobbying” in proposed HAR § 21-10-1. The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).

Vice Chair Tschumy made and Commissioner DeGuzman seconded a motion to approve insertion of the word “total” before “compensation” in proposed HAR § 21-10-7(b)(1)(C). The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).

Commissioner DeGuzman made and Vice Chair Tschumy seconded a motion to fix the grammatical error by deleting the letter “s” in “purposes” in proposed HAR § 21-10-9(c). The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).

Chair Grauly asked if that concluded the amendments to the proposed administrative rules. Executive Director Gluck said that there were additional amendments that were proposed, but not voted upon, at the May 21, 2020 meeting: the red-lined edits recommended by staff and the blue-lined edits recommended by Commissioner DeGuzman.

Vice Chair Tschumy made and Commissioner DeGuzman seconded a motion to approve amendments suggested by staff and provided at the May 21, 2020 meeting. The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).

Commissioner Fong made and Commissioner Wood seconded a motion to approve the entire rules package, incorporating the stylistic and grammatical amendments proposed by Commissioner DeGuzman at the May 21, 2020 meeting. The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).

Chair Grauly said that the rules package will be sent to the Attorney General’s office next.

Commissioner Fong expressed his gratitude to Mr. Toyofuku, who has been a lobbyist for many years. Mr. Toyofuku reciprocated his thanks.

Agenda Item No. IV: Office of Information Practices: Request for Comments for Draft Legislation

Chair Grauly asked Executive Director Gluck to confirm that the Office of Information Practices (“OIP”) is asking for input from the Commission.

Chair Grauly acknowledged that Ms. Ma just entered the meeting.

Executive Director Gluck stated that OIP requested input on possible proposals for the next legislative session. Executive Director Gluck stated that he intends to write to OIP to express support for statutory changes that would allow the Commission to hold meetings via videoconference without having to disclose the Commissioners' locations to the public. He believes videoconferencing will increase participation by members of the public and will save neighbor island Commissioners the time and expense of traveling to meetings.

Chair Graulty asked if there were any questions. There were none.

Agenda Item No. V: Evaluation of Executive Director Daniel Gluck

Chair Graulty asked if Vice Chair Tschumy and Commissioner Wood could set up a survey via SurveyMonkey to assist in the evaluation of Executive Director Gluck. There were no objections.

Commissioner DeGuzman made and Commissioner Fong seconded a motion that Vice Chair Tschumy and Commissioner Wood conduct a survey via SurveyMonkey in connection with the evaluation of Executive Director Gluck. The motion carried unanimously (Graulty, Tschumy, DeGuzman, Wood, and Fong voting).

Agenda Item No. VI: Recognition of Commissioner Susan DeGuzman

Chair Graulty announced that this was Commissioner DeGuzman's last meeting and expressed his appreciation for her eight years of service on the Commission.

Executive Director Gluck also voiced his appreciation and gratitude for Commissioner DeGuzman's work on the Commission. Commissioner DeGuzman was presented with a wooden bowl from the Commissioners and staff. Executive Director Gluck added that no state funds were used for the purchase of this gift.

Commissioner DeGuzman described her term on the commission as fun and challenging, and said that she will miss everyone.

Chair Graulty requested that all Commissioners sign Commissioner DeGuzman's certificate in original ink.

Chair Graulty stated that the Judicial Council has not started interviewing candidates for the seat vacated by Commissioner DeGuzman. He asked Mr. Toyofuku if he (Mr. Toyofuku) was still a member of the Judicial Council. Mr. Toyofuku replied that he is still a member of the Judicial Council and that interviews of prospective commissioners had been delayed due to COVID-19.

ADJOURNMENT OF SUNSHINE LAW MEETING

Chair Gaulty asked whether any members of the public had any additional testimony on any agenda item. None of the attendees had any additional testimony.

At 9:42 a.m., Commissioner DeGuzman made and Commissioner Wood seconded a motion to adjourn the Sunshine Law Meeting. The motion carried unanimously (Gaulty, Tschumy, DeGuzman, Wood, and Fong voting).

The meeting was adjourned at 9:42 a.m.

Minutes approved on: July 16, 2020