

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

STATE OF HAWAI'I

Date: January 19, 2022
Time: 9:00 a.m.
Location: Held via Zoom video and audio conference
Present: State Ethics Commission Members

Melinda S. Wood, Chair (via video conference)
Wesley F. Fong, Vice Chair (via video conference)
Reynard D. Gaulty, Commissioner (via video conference)
Harry J. McCarthy, Commissioner (via video conference)
Beverley Tobias, Commissioner (via video conference)

State Ethics Commission Staff

Robert D. Harris, Executive Director (via video conference)
Susan D. Yoza, Associate Director (via video conference)
Nancy C. Neuffer, Staff Attorney (via video conference)
Bonita Y.M. Chang, Staff Attorney (via video conference)
Kee M. Campbell, Staff Attorney (via video conference)
Patrick W.C. Lui, Computer Specialist (via audio conference)
Caroline Choi, Office Manager (via audio conference)

Sandy Ma, Common Cause Hawai'i (via video conference)

CALL TO ORDER

Chair Wood called the meeting to order at 9:01 a.m. and confirmed that all Commissioners and staff were present. Chair Wood announced that if the Commission's videoconference connection was lost during the meeting, the meeting would be recessed and reconvened after the connection was restored; members of the public were asked to check the Commission's website (www.ethics.hawaii.gov) for information about reconnecting to the meeting.

Agenda Item No. I: Consideration and Approval of the Minutes of the December 15, 2021 Meeting

Vice Chair Fong made and Commissioner Graulty seconded a motion to approve the minutes of the December 15, 2021 meeting. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

Agenda Item No. II: Election of Officers for 2022

Chair Wood stated that her second term on the Commission, and Vice Chair Fong's first term on the Commission, will end in June. In light of this, Chair Wood asked whether the Commissioners wished to elect officers for 2022 at this meeting or keep the current officers in place and defer the election to June 2022.

Vice Chair Fong made a motion to re-elect Chair Wood as Commission Chair. There was no second to the motion and Vice Chair Fong later withdrew the motion.

Commissioner Graulty suggested that the Commission extend the terms of its current officers to June 30, and elect new officers in July. Further discussion followed as to whether the election of officers should be held in June or July.

Commissioner Graulty made and Vice Chair Fong seconded a motion to keep the Commission's current officers in place and defer the election of new officers to July 2022. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

Agenda Item No. III: Executive Director's Report

Chair Wood welcomed Robert Harris as the Commission's new Executive Director. Executive Director Harris thanked the Commission and said he recognized the importance of holding state officials to the highest standards of ethical conduct. Executive Director Harris said that during his first few months, he plans to speak to as many people as possible about the Commission's work to build upon the strong foundation that already exists. He also will be addressing issues such as the expiration of the Commission's office lease in about a year; legislative funding to update the office servers; and work arrangements after the pandemic.

Executive Director Harris referred to the materials for the Education and Training Report; Guidance and Assignment Statistics for December; Financial Report for the Second Quarter of FY 2021-2022; and the January issue of *The High Road*. The Commissioners did not have any questions about these items.

Chair Wood said that she liked the most recent issue of *The High Road* and thought that it was well done.

Executive Director Harris also informed the Commission that he hired someone for the vacant staff attorney position and the person will start work on February 10.

Staff Attorney Chang updated the Commission about the new travel questionnaire form on the Commission's website and financial disclosure deadlines for legislators, employees, and board members. She explained that because this is an election year, candidates will also be filing financial disclosures.

Agenda Item No. IV: 2022-2023 Budget

There was no discussion about this agenda item.

Agenda Item No. V: Legislative Session

Vice Chair Fong said that he strongly supported the proposed mandatory ethics training bill. Commissioner McCarthy agreed and said it was fundamental that all employees should receive ethics training.

Executive Director Harris said that the Commission's proposed mandatory training bill was introduced as HB 1475 and SB 2039, and the chairs of both Judiciary committees tentatively supported hearing the bill. Executive Director Harris also spoke to HGEA about the bill. He said that the issues that may come up are more administrative in nature, such as how the Commission will track employees who take the training, how all employees will obtain access to a computer, and whether the training will take place during work time. Executive Director Harris is trying to communicate to others that the spirit of the bill is to have more employees take the ethics course. He also spoke about the training sessions conducted by staff and the online training course. He explained that in order to push for mandatory training, it was important to have the online course available for employees to take as their schedule permits.

Sandy Ma of Common Cause Hawai'i asked whether the Commission provides ethics guidance to candidates. Associate Director Yoza explained that until a candidate becomes an elected state official, the Commission's jurisdiction is limited to requiring the candidate to file a financial disclosure. However, candidates who are engaged in campaign activities do interact with state agencies and the Commission has in the past sent its campaign guidelines to legislators and state departments as an ethics reminder about campaign activities by state officials and employees.

Executive Director Harris said that he has received many questions from legislators about the Commission's administrative rules regarding gifts. To address

some of these questions and possible changes to the Gifts law, staff is putting together a Quick Guide on gifts to legislators.

The Commissioners discussed scheduling a meeting in early February to discuss bills that have been introduced so that staff has guidance as to the Commission's position on these bills should they be scheduled for hearings. By consensus, the Commissioners agreed to schedule a meeting on February 3, 2022, at 9:00 a.m. to discuss legislation.

Agenda Item No. VI: Akana v. Hawaii State Ethics Commission and Daniel Gluck, Civil No. 18-1-1019-06 (JHA); Akana v. Hawaii State Ethics Commission, Civil No. 19-1-0379-03 (JHA); State of Hawaii, Ethics Commission v. Rowena Akana, Civil No. 20-1-0453 (BIA)

Executive Director Harris stated that the Commission is still awaiting a decision from the Intermediate Court of Appeals; there are no other updates. He recommended that the Commission go into Executive Session to consult with its attorneys about other issues relating to this matter.

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 9:51 a.m., Vice Chair Fong made and Commissioner Gaulty seconded a motion to convene an Executive Session pursuant to Hawai'i Revised Statutes section 92-5(a)(4) to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. The motion carried unanimously (Wood, Fong, Gaulty, McCarthy, and Tobias voting).

The Commissioners and staff met in Executive Session. All members of the public were excused.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 10:08 a.m., Commissioner Tobias made and Commissioner Gaulty seconded a motion to adjourn the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (Wood, Fong, Gaulty, McCarthy, and Tobias voting).

The Commission adjourned the Executive Session and returned to the Sunshine Law meeting at approximately 10:09 a.m. There were no members of the public who were waiting to be re-admitted to the Sunshine Law meeting.

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 10:09 a.m., Commissioner Gaulty made and Vice Chair Fong seconded a motion to adjourn the Sunshine Law Meeting. The motion carried unanimously (Wood, Fong, Gaulty, McCarthy, and Tobias voting).

The meeting was adjourned at 10:09 a.m.

Minutes approved on February 16, 2022.