STATE OF HAWAII
ELECTIONS COMMISSION

MINUTES

WILLIAM B. MARSTON
ELECTIONS COMMISSION CHAIR

REGULAR MEETING OF THE
ELECTIONS COMMISSION

JULY 9, 2015 @ 10:00 AM
KAKUHIHEWA STATE OFFICE BUILDING
601 KAMOKILA BLVD., ROOM 167B
KAPOLEI, HAWAII 96707

MAUI	BIG ISLAND	KAUAI
Wailuku State Office Building 54 So. High Street, 3rd Fl. Wailuku, Hawaii 96793	Hilo State Office Building 75 Aupuni Street, Basement Hilo, Hawaii 96720	Lihue State Office Building 3060 Eiwa Street, Basement Lihue, Hawaii 96766

Commissioners in Attendance:

Mr. William Marston, Chair
Ms. Patricia Berg
Mr. Charles King
Ms. Carol Kitaoka
Ms. Ruth Limtiaco
Ms. Terry Lynn Moore
Mr. Warren Orikasa
Mr. Victor Vierra
Mr. Danny Young

Technical Support Staff in Attendance:

Ms. Valri Kunimoto, Department of the Attorney General
Mr. Scott Nago, Chief Election Officer
Ms. Ruthie Ah Hee, Office of Elections
Ms. Nedielyn Bueno, Office of Elections – Lihue State Office Building
Ms. Judy Gold, Office of Elections
Ms. Pat Nakamoto – County of Hawaii – Hilo State Office Building
Ms. Sheri-Ann Longoria, Office of Elections – Wailuku State Office Building
Mr. Rex Quidilla, Office of Elections
Mr. Rhowell Ruiz, Office of Elections
Mr. Aaron Schulaner, Office of Elections
Ms. Aulii Tenn, Office of Elections

Ms. Jamee-Lee Toro-Lopes, Office of Elections
Ms. Kristen Uyeda, Office of Elections
Mr. Chris Wong, Office of Elections

Guests in Attendance – Kakuhihewa State Office Building:

Ms. Janet Mason – League of Women Voters
Mr. Gordon Pang – Star Advertiser
Mr. Kendrick Settsu

PROCEEDINGS

I. Call to Order

Chair Marston called the meeting to order at 10:00 a.m. on July 9, 2015 at the Kakuhihewa State Office Building, Room 167B.

II. Roll Call and Determination of a Quorum

Elections Commission Secretary conducted roll call. All Commissioners were in attendance.

III. Approval of Minutes for the meeting of May 18, 2015

Commissioner Moore provided grammatical and punctuation corrections to the minutes, under Agenda Item No. VII, third paragraph, in the quoted statement:

- First sentence, second line – add a period ".", after the word "responses."
- First sentence, fifth line – add a period "." after the word "again."
- First sentence, fifth line – capitalize "P" in Perhaps, to start a new sentence.
- On page 9, third line – add a period ".", after the word "reaching."
- On page 9, third line – capitalize "H" in How, to start a new sentence.
- On page 9, fourth line – delete the comma "," and add a question mark "?", after the word "forward?"
- On page 9, fourth line – capitalize "T", in "This", to start a new sentence.

Commissioner King moved that the minutes be approved as corrected. The motion was seconded by Commissioner Orikasa and approved unanimously by the Commissioners.

IV. Public Testimony – Any interested person may submit comments or testimony on any agenda item

a. County of Kauai – Ms. Bueno informed no one available to testify.

b. County of Maui – Ms. Longoria informed no one available to testify.

c. County of Hawaii – Ms. Nakamoto informed no one available to testify.

d. City and County of Honolulu – No one available to testify.

V. Status of Operations Report from the Chief Election Officer, discussion and action, if appropriate

Chief Election Officer (CEO) Nago advised if it is okay with the Commission, he will combine the Status of Operations Report with Agenda Item No. VI, 2015 Legislation.

CEO Nago reported that since the Status of Operations Report was written, there were two election related bills that were signed by the Governor.

- House Bill 179 relating to permanent absentee ballots, is Act 174, and
- Senate Bill 440 relating to U.S. senator vacancies, is Act 179

CEO Nago reported that House Bill 15, the Elections Commission bill was also signed into law, and is Act 173. This bill specifies that the Chief Election Officer is an "at-will" employee, and requires the Elections Commission to conduct a performance evaluation of the chief election officer after a general election at a public hearing.

CEO Nago advised the Governor announced he intends to veto Senate Bill 218, relating to the Office of Lieutenant Governor succession vacancy. CEO Nago stated the Office of Elections (OE) had no position on this bill.

CEO Nago reported that the OE continues to work on the online voter registration system, and is on target to go live on August 3, 2015. Anyone with a State ID or Driver's License can register online. OE is currently testing the system to ensure access to persons with disabilities, and a more extensive test will be conducted to make sure all the functionalities work.

OE website went live on June 19, 2015. The new OE website is more uniform in appearance with other State agency websites, and is easier to navigate and use. Chair Marston inquired if any Commissioner visited the new website. Both Commissioners Berg and Moore indicated they have visited the new website and liked it, and Commissioner Moore congratulated CEO Nago. CEO Nago commended the staff who worked hard on that project and welcomed any questions from the Commissioners.

Regarding the online voter registration system, Commissioner Orikasa mentioned that he spoke to some legislators who mentioned that CEO Nago will make a presentation to the Senate, next month or in a couple of months. CEO Nago confirmed that he was asked by the Senate to give a presentation on the online voter registration system, but the date has not been set. CEO Nago stated the Senators also want to discuss Election Day registration for the upcoming election. CEO Nago advised that by the time the Informational Briefing is scheduled, the online voter registration will be live, and OE can provide a presentation of how it operates. Commissioner Moore asked to be notified of the date, in case Commissioners wish to attend. Commissioner King requested if CEO Nago can provide the presentation to the Commission, for those who will not be able to attend, and CEO Nago agreed.

Commissioner Limtiaco mentioned that at the last meeting, CEO Nago explained that OE did not receive the funding for voter education, but that there are federal funds that can be expended, and in anticipation of the online launch on August 3, 2015, Commissioner Limtiaco asked CEO Nago how the public will be notified.

CEO Nago advised that instead of having a media campaign now, since there is no election this year; OE will do a Press Release to announce the online launch. CEO Nago explained that when we get closer to the election cycle and conduct our normal voter registration media flights, including announcing election dates and volunteer recruitment, online voter registration will be included. CEO Nago commented that since this is a non-election year, the public may not pay as much attention to the announcement as it would during an election year. The initial plan is to let the public know it is there, and the ad buys will be done during the election year.

Commissioner Moore asked how early in the election year would OE start, will it be in January? CEO Nago noted it would depend on what event we are promoting. Voter registration is conducted closer to the deadline, but because this is online, OE will start during the candidate filing period. The online advertisements will be incorporated with other media announcements. Commissioner Moore requested that CEO Nago keep the Commission posted on the media campaign, and CEO Nago responded he will.

Commissioner Limtiaco inquired if there is an option to do this on one's phone. CEO Nago responded yes, it will be compatible with mobile phones on August 3, 2015. Commissioner Limtiaco asked if the "app" has a name. CEO Nago responded, it's not really an "app", but it is mobile friendly. Commissioner Limtiaco confirmed that a person would pull up OE website. CEO Nago commented that when you pull up the OE website, it will appear a little differently because of the mobile plan.

Commissioner King suggested "banner apps", not buying them, maybe having "pop ups" when anyone goes to a state website. CEO Nago commented it will definitely be on OE website, but OE can look into banner apps.

VI. Discussion of 2015 Legislative Bills as they affect the Office of Elections and the Elections Commission, signed by the Governor, and any issues regarding implementation and action, if appropriate

Please refer to the CEO Status of Operations Report under Agenda Item No. V.

VII. Discussion and implementation of procedures necessary to finalize the selection of a new Elections Commission Chair to succeed the current Chair as of December 4, 2015

Chair Marston advised that the Commission should reach an agreement on what it wants to do, finalize it, and have everyone agree to it. Chair Marston explained, in his particular situation, when he was selected, he was asked to come in and he was examined by the commission, he was asked a number of questions and he asked questions as well. There was another candidate. The Commission went into Executive Session after the interview, and after the candidates left, the Commission voted, and he was selected as Commission Chair. Chair Marston advised it was clean and simple, and he suggest the Commission do the same thing going forward, and conduct it at the next meeting that everyone agrees upon.

Chair Marston asked the Commission Secretary if there were any other replies received, and Commission Secretary responded there were none. Chair Marston clarified the Commission received only one resume, Secretary responded yes. Chair Marston confirmed that the one resume is from Jeffrey Kuwada, the former Maui County Clerk.

Chair Marston asked if there was any further discussion, shall the Commission schedule a meeting, or are there any questions. Commissioner King commented that Chair Marston was asked to pay his way over, he doesn't think it is appropriate as it may discourage applicants. Chair Marston agreed. Chair Marston explained, he did not appreciate having to pay his way over for the interview, he did not think it was the correct thing to do but he agreed to it, and thought he could conduct other business while in Honolulu. Chair Marston stated he agrees the Commission should pay the airfare, and welcomed any thoughts.

Commissioner Orikasa inquired if there was a reason why the expense was not previously covered. Chair Marston responded he did not know. Chair Marston informed, he is the first and only Chair the Commission has had since it was formed a year to two before his appointment. Members of the legislature established and appointed a commission of eight. The Commission started to put

things together trying to figure out how things were going to work. So much of what has transpired over the past eight years have been things this Commission has established. So the decision was made that they were not going to pay the airfare, and he was never advised of the reason. Chair Marston stated that he would agree that if we have a candidate who is sincere about spending the time, he thinks the Commission should pay the airfare. Commissioner Berg commented that the Commission does not have a budget, and asked if there is any money available. CEO Nago responded OE can pay for it. Commissioner Limtiaco inquired if there was a place in the line items. Commissioner Kitaoka inquired what if ten more people apply. Chair Marston replied we would probably pay for ten more airfares.

Chair Marston noted that the application deadline of July 2, 2015, had passed. Commissioner Kitaoka commented then no one else can apply. Commissioner Berg stated she thought the deadline should be extended for as long as we can for anyone else who has not heard about it. She did not think we should cut it off. Chair Marston thinks going forward, the Commission should set the date for those who have applied, to schedule an interview, make a selection, or keep on going. Commissioner Limtiaco suggested that the applicant be invited to the next regularly scheduled meeting to be interviewed. Commissioner Limtiaco asked if the interview will be done in Executive Session and Chair Marston confirmed, the interview will be held in Executive Session.

Chair Marston stated we can keep the position open for people to apply with the understanding that if someone does apply, they have to apply before the next meeting, or at some particular point in time before the next meeting. Chair Marston suggested the Commission set a meeting date. Deputy AG Kunimoto suggested the Commission should set a deadline to interview all of the applicants at one time, since it may not be fair for the interviewees to come in, one at a time, months apart, and the Commission rely on their recollection or the feedback they received. Deputy AG Kunimoto suggested that would be a better way to conduct the interviews, as it is more definite. Deputy AG Kunimoto indicated that deadlines were set in all the notices, it was advertised in the newspapers and extended once. We set the deadline, and keep extending it; she recommended the Commission cut it off.

Chair Marston inquired if the deadline was today, July 9, 2015; Commission Secretary noted the deadline was July 2, 2015. Chair Marston commented he does not think the deadline should be extended any further. Deputy AG Kunimoto was not sure if the Commission felt comfortable that they have enough competition, but no one else had applied and repeatedly extending the deadline affects the process.

Commissioner King thought we should interview the applicant that we have, and see if he's acceptable. Commissioner Berg asked how much longer do we have,

as Chair Marston has agreed to remain until his term ends. Chair Marston commented, by law, his term ends, and he will be out on December 4, 2015. Commissioner Berg commented she thinks we still have time to keep the position open.

Commissioner Limtiaco asked when the next meeting will be held, and Chair Marston replied, we need to set the date.

Commissioner Orikasa stated the Commission followed a process, we placed what would have been reasonable notice to the general public, and what would have been reasonable venues for discovery, we have an applicant, and he feels the Commission is somewhat obligated to follow the time frame that was set. So we have an applicant, we should follow through and interview that applicant, and as Commissioner King stated, should that applicant be unsatisfactory, then we can pursue and continue the process.

Chair Marston suggested that if the Commission was unable to agree to a Chair and he could no longer serve as Chair, it could select an Interim Chair, which is what happened when Chair Marston was appointed. One of the Commissioners' served as the Interim Chair. However, the Commission has a viable candidate, and we should not tag him along any longer, we should set a date, invite him over, have the interview and if you want to keep him fine, if you don't, we continue the interview process. Commissioner Limtiaco agreed.

Commissioner Kitaoka commented we are closing the application process. Chair Marston confirmed, yes, it is closed.

Commissioner Orikasa suggested to schedule the meeting in August would be reasonable, and possibly be interesting if it can coincide with OE's presentation to the Senate. CEO Nago replied the Senate is looking at September or October. Chair Marston commented because of summer, vacation and travel, he suggested possibly holding the meeting in September. Commissioner Orikasa stated the Commission has an obligation to be judicious in the timing. Commissioner Limtiaco commented, if the Commission likes the candidate, she thinks it would be great to have as much overlap as possible with Chair Marston, before his term ends in December, so she would not want to defer until September and suggested meet in August. Commissioner Limtiaco inquired whoever's calendar is the most complicated should provide some dates.

Commission Secretary inquired if the Commission wanted to hold a video conference or conduct the meeting elsewhere. Commissioner King inquired if this meeting is mainly to go into Executive Session. Chair Marston noted, the Agenda will probably include a report from Scott and that's it, then go into Executive Session, and conduct the interview. With the turnouts in the neighbor islands,

Chair Marston does not think the agenda is much of a drawing card, so he suggests that the next meeting be somewhere downtown.

Commission Secretary advised she checked on the availability of the State Office Tower Conference Room, and provided the available dates. The Commission agreed on August 10, 2015 at 10:00 a.m. at the State Office Tower, on Beretania Street.

Chair Marston asked Commission Secretary to send a notification to the applicant, Jeffrey Kuwada.

Chair Marston confirmed that the Commissioners agreed to schedule the meeting on Monday, August 10, 2015 and to meet in regular session, followed by an Executive Session, where the candidate will be interviewed by the Commission. Following the interview, the Commission will continue in Executive Session and have a discussion of either yea, or nay. If all vote "yea", the applicant shall so be informed and Chair Marston will work on developing a transition program of some sort with him.

Commissioner King commented that the Commission is assuming that the state will be okay with the candidate too. Chair Marston commented, we are assuming that, yes.

Chair Marston confirmed that all Commissioners agreed on the process and a vote was not needed.

Commissioner Limtiaco asked if the Commission needs to consider the questions that the Commission will be asking the candidate between now and then, or will it be ad hoc. Chair Marston responded it was up to the Commission. Chair Marston commented, going back to his experience, the Commission had a resume and from the resume, questions were asked. A lively discussion started when he asked the Commission what they expected from the Chair. Chair Marston noted, that the applicant is his successor, and he does not think that it is necessary for the Commission to have a formal list of questions. He thinks if the Commissioners have their own questions, they should ask those, but he did not think that the Commission should develop a formal list of questions.

Commissioner Berg agreed that it was better ad hoc. Commissioner Berg inquired about the resume and if one had been sent out, she did not receive one. Commission Secretary informed Commissioners that the resume was emailed to the Commissioners but she had extra copies to be distributed in Executive Session.

VIII. Open Forum: Public comments on issues for the Commission's consideration for the next Commission meeting and action, if appropriate. Presentations limited to three minutes.

a. County of Kauai – Ms. Bueno responded, no comments from the County of Kauai

b. County of Maui – Ms. Longoria responded, no comments from the County of Maui

c. County of Hawaii – Ms. Nakamoto responded, no comments from the County of Hawaii.

d. City and County of Honolulu – No comments

With no further comments, Chair Marston asked for a motion to go into executive session to discuss the recommendation from the Salary Committee, pursuant to Section 92-5(a)(2), HRS, on the salary adjustment of the Chief Election Officer, pursuant to Section 11-1.6(e).

The motion was made by Commissioner Young, seconded by Commissioner Vierra, and approved unanimously by the Commissioners.

The Commission dissolved into Executive Session at 10:32 a.m.

IX. Executive Session

Pursuant to Section 92-5(a)(2), HRS, to discuss the recommendation from the Salary Committee on the salary adjustment of the Chief Election Officer, pursuant to Section 11-1.6(e), HRS, and action, if appropriate.

The Commission resolved into open meeting at 11:00 a.m.

X. Salary adjustment of the Chief Election Officer, pursuant to Section 11-1.6(e), HRS, if applicable.

Chair Marston announced that the Commission voted to increase CEO Nago's annual salary to $90,000, effective July 1, 2015, which represents 75% of the total amount the Chief Election Officer is entitled to be paid.

XI. Adjournment

The next meeting will be scheduled on Monday, August 10, 2015, at the State Office Tower.

With no further business before the Commission, Chair Marston asked for a motion to adjourn the meeting. The motion to adjourn was made by Commissioner Young, seconded by Commissioner King, and approved unanimously by the Commissioners.

Elections Commission meeting was adjourned at 11:01 a.m.

Respectfully submitted,

Judy A. Gold
Elections Commission Secretary