

**MINUTES  
OF THE  
REGULAR MEETING OF THE  
ELECTIONS COMMISSION**

**OCTOBER 16, 2008**

**10:00 A.M.**

**LEIOPAPA A KAMEHAMEHA BUILDING, ROOM 204  
235 SOUTH BERETANIA STREET  
HONOLULU, HAWAII 96813**

**Commissioners in Attendance:**

Mr. John Chan  
Mr. William Marston, Chair  
Mr. Brian Nakashima  
Mr. Harold Nelson  
Ms. Zale Okazaki  
Ms. Donna Soares  
Mr. Richard Swift  
Mr. Daniel Young

**Technical Support Staff in Attendance:**

Ms. Robyn Chun, Department of the Attorney General  
Mr. Kevin Cronin, Chief Election Officer  
Ms. Ciress Cuevo, Office of Elections  
Mr. David Rosenbrock, Office of Elections  
Mr. Aaron Schulaner, Office of Elections  
Mr. Russell Suzuki, Department of the Attorney General

**Guests in Attendance:**

Ms. Barbara Annis, Department of Accounting and General Services  
Mr. Bart Dame, Democratic Party of Hawaii  
Mr. Charles Freedman, Democratic Party of Hawaii  
Mr. Willis Lee, Hawaii Republican Party  
Ms. Jo Ann Maruoka, League of Women Voters

**PROCEEDINGS**

I. Call to Order

The meeting was called to order by Chair William Marston at 10:00 a.m. on October 16, 2008 at the Leiopapa a Kamehameha Building in room 204.

II. Swearing in of New Commissioner: Mr. Brian Nakashima

Ms. Robyn Chun, Deputy Attorney General swore in Mr. Nakashima as a Commissioner.

III. Roll Call and Determination of a Quorum

Ms. Ciress Cuevo, Elections Commission Secretary conducted roll call. Ms. Yuki Lei Sugimura was absent.

IV. Approval of Minutes of Meeting of September 9, 2008

Ms. Donna Soares moved to approve the minutes of the meeting of September 9, 2008. Mr. Daniel Young seconded, and the motion carried unanimously.

V. Review of Primary Election and Reports from Commissioners

The Chief Election Officer (CEO) gave an overview on how the Primary Election went and provided the Commission with a statistical report on the events that occurred that day.

Commissioners Soares, Chan, and Okazaki reported on their experiences and findings from the Primary Election.

Ms. Soares noted that the Maui elections office did a good job and was very helpful in providing support to the polling place that she worked at as a Voting Assistance Official. In addition, Ms. Soares expressed her gratitude to the Maui elections office for including herself and Ms. Yuki Lei Sugimura in the election process.

Commissioners Nelson and Swift expressed their difficulty in being able to observe elections operations in the County of Kauai.

Chair Marston inquired whether there were any comments from the public.

Mr. Bart Dame, Democratic Party of Hawaii remarked that there was progress and noted that there were fewer spoiled ballots in this election. However, Mr. Dame expressed his concerns regarding confusion for voters who made the nonpartisan ballot selection because they intended to vote on the nonpartisan races, anomalies in the election results regarding over votes, absentee walk sites that only provided the option to vote on an electronic voting machine, and audit standards for absentee ballots.

VI. Establish Policies for the Administration of an Elections Observer Program for the Elections Commission

Chair Marston proposed a set of rules for the Commission's elections review program to review and adopt.

The CEO agreed with items two through five, and seven, but objected to items one and six. The CEO noted that item one would risk infringing the authority of the CEO to authorize and approve individuals to appear at a polling place on Election Day. Item six regarding Commissioners asking questions of exiting voters pertaining to their voting experience may risk creating serious problems. Ms. Chun opined that it is important for the Commission to clarify whether the proposed items are policies, guidelines, or rules. If the proposed items are intended to be administrative rules, the items cannot be adopted in this type of proceeding. The Commission agreed that the proposed items are guidelines.

Ms. Soares moved to establish the guidelines as proposed in items two, three, four, five and seven, and delete item six and take item one under advisement. Mr. Daniel Young seconded, and the motion carried unanimously.

Chair Marston asked counsel for an interpretation of Haw. Rev. Stat. §11-132(c) regarding the CEO's authority to approve Commissioners as observers on Election Day. Mr. Russell Suzuki, Deputy Attorney General will be providing a written response to the Commission.

The CEO proposed revising item one to state, "Each Commissioner will develop his/her list of election polling places and counting centers to visit and observe, and inform the Chief Election Officer." Having this information will enable the CEO to inform the County Clerks and precinct chairs that an Elections Commission member may visit a polling place.

Ms. Soares moved to approve the revised language for item one. Ms. Okazaki seconded. The motion passed (No: Marston; Yes: Chan, Nakamine, Nelson, Okazaki, Soares, Swift, and Young)

In response to Chair Marston's request, the CEO noted that copies of the guidelines will be provided to the County Clerks.

Mr. Nelson moved to commend the CEO and the Office of Elections on the successful completion of the Primary Election. Ms. Soares seconded, and the motion carried unanimously.

VII. Executive Session pursuant to Haw. Rev. Stat. §92-5(4). Consult with counsel re: the following pending lawsuits:

1. Babson v. Cronin, Civil No. 08-10-378(3)
2. Procurement appeals (ES&S v. Cronin, Civil No. 08-101657-08, Hart InterCivic v. ES&S, Civil No. 08-1-1665-08, Cronin v. ES&S, Civil No. 08-1-1680-08)

[confidential attorney/client communication]

Ms. Okazaki moved for the Commission to go in to executive session. Mr. Harold Nelson seconded, and the motion carried unanimously.

The Commission resolved to executive session at 11:32 a.m. and reconvened in open meeting at 11:56 a.m.

VIII. Adjournment

Chair Marston adjourned the meeting at 11:57 a.m.

Respectfully submitted,  
Ciress Cuevo  
Elections Commission Secretary