

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

**OCTOBER 13, 2009
STATE CAPITOL, ROOM 423
415 SOUTH BERETANIA STREET
HONOLULU, HAWAII 96813**

Commissioners in Attendance:

Mr. William Marston, Chair
Mr. Brian Nakashima
Mr. Harold Nelson
Ms. Zale Okazaki
Ms. Donna Soares
Ms. Yuki Lei Sugimura
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. Aaron Schulaner, Office of Elections
Mr. Russell Suzuki, Department of the Attorney General
Mr. Richard Thomason, Department of the Attorney General

Guests in Attendance:

Ms. Jean Aoki, League of Women Voters
Mr. Roderick Becker, State Senate
Ms. Georgette Deen, House of Representatives
Mr. Derrick DePledge, Honolulu Advertiser
Mr. Josh Frost, Progressive Democrats of Hawaii
Mr. Kenneth Goodenow, Hawaii County Clerk
Mr. Chadd Kadota, Honolulu City Clerk's Office
Mr. Jeffrey Kuwada, Maui County Clerk
Ms. Nikki Love, Common Cause
Ms. Shirley Magarifuji, Maui County Clerk's Office
Ms. Jo Ann Maruoka, League of Women Voters
Ms. Bernice Mau, Honolulu City Clerk
Mr. Justin Menolascino, Hawaii Republican Party

Ms. Jacce Mikulanec, House Majority Leader
Ms. Pat Nakamoto, Hawaii County Clerk's Office
Mr. Herbert Sample, Associated Press
Mr. Glen Takahashi, Honolulu City Clerk's Office
Ms. Melissa Vomuois, Common Cause
Mr. Lyndon Yoshioka, Kauai County Clerk's Office

PROCEEDINGS

I. Call to Order

The meeting was called to order by Chair William Marston at 10:00 a.m. on October 13, 2009 at the State Capitol in room 423.

II. Roll Call and Determination of a Quorum

Ms. Ciress Cuevo, Elections Commission Secretary conducted roll call. Mr. Richard Swift was absent.

III. Approval of Minutes of Meeting of July 22, 2009

Chair Marston noted that Mr. Masumoto's name under item VII must be corrected to state Mr. Nelson's name. Also, Ms. Yuki Lei Sugimura asked that language under item V regarding all mail legislation be revised to clarify that it was proposed legislation for the state.

Ms. Sugimura moved to approve the minutes of the meeting of July 22, 2009 with amendments. Ms. Donna Soares seconded, and the motion carried unanimously.

IV. Public Testimony – Any interested person may submit data, views or arguments on any agenda item

Mr. Peter Nakamura, Kauai County Clerk provided written and oral testimony on behalf of all the County Clerks; Mr. Kenneth Goodenow, Hawaii County Clerk, Mr. Jeffrey Kuwada, Maui County Clerk, and Ms. Bernice Maui, Honolulu City Clerk. Mr. Nakamura testified on agenda items V and VIII(B), Review of the 2010 Election Preparation and Evaluation of the Chief Election Officer. All four County Clerks expressed concerns about the little progress being made to prepare for the 2010 elections, the Chief Election Officer's (CEO) decision making and the CEO's lack of collaboration with the counties.

In response to Mr. Daniel Young's inquiry whether the CEO is cooperating with each county, the County Clerks all agreed that the level of cooperation with each county is inadequate and needs improvement. The CEO noted that he was not

made aware of these concerns prior to today's meeting. Mr. Young expressed the need for the CEO to exercise leadership.

Commissioners expressed concerns regarding the County Clerks' testimony and expressed the need for the CEO to collaborate with the counties.

Ms. Zale Okazaki requested that the County Clerks participate in the executive session item VIII(B) regarding the evaluation of the CEO. Ms. Chun opined that the counties can participate as long as the item of discussion is related to the executive session item.

V. Review of 2010 Election Preparations

The CEO reported that the Office of Elections (OE) is in a very limited position due to the fiscal circumstance. As a result, the candidate filing satellite location at the State Office Tower will not be open to eliminate costs. The CEO is still working on getting authorization to fill vacancies and hire seasonal staff. However, there is no funding for these positions. The CEO continues to study the need for cost savings.

Ms. Donna Soares sought clarification on the CEO's response to Senator Kim in his letter dated September 30, 2009 regarding deferring to the fiscal year 2011 budget for the salaries of seasonal workers. The CEO explained that due to budget issues, the OE is unable to hire seasonal workers in January 2009 as scheduled. The office will wait for the fiscal year 2011 budget to hire seasonal workers to start in July 2010 instead.

The Request for Proposal (RFP) for the voting machines was issued, but was suspended due to the Maui litigation. A court order was issued that requires administrative rules to be adopted before the RFP can continue. It was noted that the rule making process may take approximately 60-90 days.

Mr. Brian Nakashima reminded the CEO that at the previous Elections Commission meeting Chair Marston requested that the CEO provide the Commission with a roadmap summarizing what needs to be done to conduct the 2010 elections. In response to Mr. Nakashima's inquiry whether the CEO's oral report today would be provided in writing as part of the roadmap for the Commission, the CEO said yes.

The CEO reported that he submitted a budget to the House Budget and Finance Committee and noted that the committee did not question the amounts needed. The CEO explained that the Office of Elections has only approximately 10% of what it needs to conduct elections. As such, the CEO plans to meet with the Legislature again when the session begins to ask that the provisos be lifted on the funds for the civil service conversions and voting machines. In addition, the CEO clarified that the funds used for the pay raises of the Office of Elections'

employees did not have a proviso. The inequity in pay gave rise to the civil service conversions and the funds were appropriated by the Legislature.

Ms. Jean Aoki, League of Women voters provided written and oral testimony regarding concerns for the 2010 elections. Ms. Aoki pointed out issues that the Office of Elections is facing regarding staffing, procurement problems, and awaiting court rulings. Ms. Aoki urged the Commission to play a more active role and put pressure on legislators to help resolve these issues.

As a follow up to Ms. Aoki's testimony, Mr. Nelson inquired whether it is possible to expedite the legal appeals in court. Ms. Chun opined that the appeals in court cannot be expedited.

VI. Status of New RFP

This item was discussed under item V.

VII. Discussion of Senator Kim's Correspondence and DVD Sent to Commissioners

Chair Marston went over the issues noted in Senator Kim's letter to the CEO, which was a follow up to matters discussed at the Senate Ways and Means informational briefing. Commissioners expressed concerns regarding the use of funds for OE employee raises and clarified that there was no pre-arranged agreement between the CEO and the Elections Commission to raise the CEO's salary. Chair Marston cited the minutes of the June 17, 2008 minutes noting that the Elections Commission voted to give the CEO a pay raise effective July 1, 2008.

VIII. Executive Session

A. Pursuant to Haw. Rev. Stat. §92-5(4), consult with counsel regarding the commission's powers, duties, privileges, immunities and liabilities re:

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)

B. Pursuant to Haw. Rev. Stat. § §92-5(a)(2) and (4), evaluation of Chief Election Officer

Ms. Donna Soares moved for the Commission to go in to executive session after a short recess. Mr. Nelson seconded, and the motion carried unanimously.

The Commission resolved to executive session at 11:58 a.m. and reconvened in open meeting at 2:04 p.m.

IX. Adjournment

Chair Marston adjourned the meeting at 2:05 p.m. The next meeting date of the Elections Commission is to be determined.

Respectfully submitted,
Ciress Cuevo
Elections Commission Secretary