



**STATE OF HAWAII  
ELECTIONS COMMISSION**

**MINUTES**

WILLIAM B. MARSTON  
ELECTION COMMISSION CHAIR

**REGULAR MEETING OF THE  
ELECTIONS COMMISSION**

**SEPTEMBER 18, 2012 @ 10:00 AM  
STATE OFFICE TOWER  
235 SO. BERETANIA STREET, ROOM 204  
HONOLULU, HAWAII 96813**

**Commissioners in Attendance:**

Mr. William Marston, Chair  
Mr. Charles King  
Ms. Carol Kitaoka  
Ms. Margaret Masunaga  
Ms. Zale Okazaki  
Mr. Warren Orikasa  
Mr. Danny Young

**Technical Support Staff in Attendance:**

Ms. Robyn Chun, Department of the Attorney General  
Mr. Scott Nago, Chief Election Officer  
Ms. Judy Gold, Office of Elections  
Mr. Rex Quidilla, Office of Elections  
Ms. Carolyn Roldan, Office of Elections  
Mr. David Rosenbrock, Office of Elections  
Mr. Rhowell Ruiz, Office of Elections  
Mr. Aaron Schulaner, Office of Elections  
Ms. Lori Tomczyk, Office of Elections

**Guests in Attendance:**

Mr. Keoki Kerr, Hawaii News Now  
Mr. Jeffrey Kuwada, County of Maui  
Ms. Shirley Magarifuji, County of Maui  
Ms. Janet Mason, League of Women Voters  
Ms. Bernice Mau, City and County of Honolulu

Mr. Paul Omengkar, Hawaii News Now  
Mr. Glenn Takahashi, City and County of Honolulu  
Mr. Ricky Watanabe, County of Kauai  
Mr. Lyndon Yoshioka, County of Kauai  
Ms. Alia Wong, Civil Beat

## PROCEEDINGS

### I. Call to Order

Chair Marston called the meeting to order at 10:00 a.m. on September 18, 2012, at the State Office Tower, Room 204.

### II. Roll Call and Determination of a Quorum

Elections Commission Secretary conducted roll call. Commissioner Marshall and Commissioner Berg were not in attendance.

### III. Approval of Minutes of the August 22, 2012 Elections Commission Meeting

Commissioner Masunaga pointed out spelling corrections. Chair Marston moved that the minutes be approved and Commissioner Masunaga seconded the motion.

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

Janet Mason from the League of Women Voters began her testimony by thanking the Elections Commission. She noted that the Commission provides a very important service in an election year. She also noted that the League of Women Voters is concerned with the Big Island elections. She noted that at the August Commission meeting, the Elections Commission tried to review the County of Hawaii Primary Election and unfortunately no one from the Big Island County Clerk's office attended the meeting. She continued to comment that because of the lack of cooperation from the County Clerk and because the LWV continues to receive conflicting reports, the LWV asked the Commission to conduct an independent investigation of the process and actions of the Big Island during the Primary Election. She noted that the LWV wanted some assurances that the County of Hawaii and the Office of Elections are on the same page as far as identifying what problems existed during the Primary Elections. If both offices are not on the same page, the LWV does not see the problems getting resolved and prevented in the General Election.

She also noted that it would be great if the investigation has already been done. If not, she noted that during the last meeting, Chair Marston asked the LWV who they suggest do the investigation and she responded that the State Attorney General's Office had an interest in making sure that the election laws and regulations are upheld in Hawaii. She feels that this assessment is urgent and necessary to restore voter confidence. She also feels that difficulties with the Big Island election will not only affect that County but it will also affect the entire State's election. Her examples included candidate lawsuits and the State facing intense scrutiny when questions asking why issues were not addressed arise from the public.

Commissioner Orikasa asked Ms. Mason if the League of Women Voters has a membership on the Big Island. Ms. Mason responded that they have a very active membership there and they have been giving testimony to the County Council asking for election information. Commissioner Orikasa asked if they were able to get any meaningful information from the Council and the response was that the LWV only has access to public information. Commissioner Orikasa asked if they were given any assurances at the meetings and Ms. Mason responded no. Commissioner Orikasa asked if this was the reason for her presence at the Elections Commission meeting and she said in part yes.

Commissioner Masunaga asked if there was a contact person for the LWV on the Big Island and Ms. Mason said yes and she would provide that information for the Elections Commission.

V. Status Report from the Chief Election Officer

CEO Nago reported that all Primary Election contests have been resolved. He also reported that workshops have been scheduled on the neighbor islands and Oahu. There will be one (1) on Kauai, one (1) on Maui, and one (1) on Oahu. The first workshop was held on September 10<sup>th</sup> on the island of Kauai. In attendance at the workshop were the OE Section Heads and the Kauai election staff who shared their best practices on election procedures. CEO Nago reported that he and the OE staff attended debriefings held in the County of Hawaii that same week. He noted that they did not learn any new information and tried to resolve some of the issues that were raised.

Commissioner Masunaga asked if we knew who from the County of Hawaii would be attending the County of Maui workshop. CEO Nago responded that he did not but the Office was preparing a letter for the County of Hawaii asking what their plans were and who would be attending the workshop. Commissioner Masunaga also asked if anyone from the other counties committed to attend the workshop being held on Oahu and CEO Nago said that no one has notified him

yet. Commissioner Orikasa asked CEO Nago if his concerns regarding the preparedness of the County of Hawaii were forwarded to them and CEO Nago said yes. CEO Nago also noted that the concerns he raised were also voiced during the Big Island debriefings. He noted that there was acknowledgement of the concerns but he was not sure if changes would be implemented to address these concerns.

Commissioner Okazaki asked if a face to face meeting has been held with the Hawaii County Clerk and CEO Nago responded no, he has only attended debriefings with her. Commissioner Okazaki asked if face to face meetings with the Clerk would be beneficial. CEO Nago responded that the purpose of the workshops was for County of Hawaii's benefit so that they could learn from the community as a whole and unfortunately the County Clerk was unable to attend the first workshop.

Commissioner Orikasa asked the audience if there was anyone from the Big Island in attendance. Commissioner Masunaga responded that she and Commissioner Kitaoka met with County Clerk Kawauchi and Deputy County Clerk Steve Lopez last week and Ms. Kawauchi did indicate that she would not be in attendance at this meeting. Commissioner Masunaga asked Maui County Clerk Jeff Kuwada if it would be beneficial for her and Commissioner Kitaoka to attend the workshop being held on Maui County. County Clerk Kuwada responded that they were welcome to attend if they wanted to. Commissioner Masunaga explained that she and Commissioner Kitaoka volunteered to assist on election day any way that they could so she questions if attending the Maui workshop would be beneficial should they be deployed to work. County Clerk Kuwada noted that without knowing what work they would be performing, it may be beneficial for them to attend any training that the County of Hawaii will be offering its workers.

Commissioner Orikasa asked Commissioner Masunaga and Kitaoka if at the meeting held with County Clerk Kawauchi, was there any discussion on how to remedy the issues that arose during the Primary Election. Commissioner Masunaga responded yes and she was prepared to discuss this during Executive Session.

Commissioner Okazaki asked why there was resistance from Hawaii County and why they were not accepting any help from the Office of Elections. CEO Nago responded that he was unable to answer that question for the Commission.

Commissioner Young asked CEO Nago if he was trying to remedy and correct this situation with the County Clerk. CEO Nago responded that the Office of Elections is providing all the help and assistance it can. He also noted that he has had some discussion with the County Clerk but was not sure if she was

using any of the information that was provided to her. Commissioner Young asked if the County Clerk reported to the CEO and the response was no. CEO Nago explained that the County Clerk reports to Council Chair Yagong and the Hawaii County Council. As an example, the Office of Elections wrote a letter to the County Clerk informing her that the Office of Elections received a complaint from a citizen who went to the County Clerk's Office to get an Absentee Application and when they opened the application it was filled out with another person's private information. Since no response from the County Clerk was received, a follow up letter was written to her. CEO Nago noted that he is concerned because he thinks that by statute there is a reporting time requirement for this type of incident.

Commissioner Young noted that he is concerned with the fact that the County Clerk can perform badly during an election and does not answer to either the Chief Election Officer or the Elections Commission. He asked who could do anything in the event that the poor performance continues into the General Election. CEO Nago responded that the County Council and the Council Chair would have to take action. Commissioner Young asked if the County Council was aware of the concerns raised regarding the current County Clerk and CEO Nago said that correspondence has been sent to the Council and its Chair outlining the problems and concerns.

CEO Nago explained to Commissioner Young that there is a clear delineation of election responsibilities outlined in the HRS. The County is responsible for voter registration and absentee voting and the State is responsible for Election Day polling place operations and the counting of ballots. On the neighbor islands, some of the polling place operations are delegated to the County Clerk.

Commissioner Okazaki asked if the Office of Elections will be sending staff over to County of Hawaii to assist on General Election day. CEO Nago said that they are considering it as long as it does not hurt the operations on Oahu.

Janet Mason from the LWV noted that the LWV made three recommendations to the Hawaii County Council. One being that the duties of the County Clerk be separate from the Election Administrator duties and that a single person be assigned as the Elections Administrator for the County of Hawaii. This recommendation was made because the LWV recognizes the problems that are currently being discussed by the Commission.

#### VI. Discussion of unresolved issues from the 2012 Primary Election

CEO Nago reported that for the County of Hawaii, precinct cans were not packed properly and the phones were not programmed correctly. Issues with the Control Center stemmed from the fact that the phones were not programmed correctly and they were not sent to the right locations. These problems can be corrected.

The Office of Elections can provide training for the packing of cans if the County Clerk requests training and assistance.

Commissioner Orikasa asked, for purposes of clarification, if a good portion of the problems on Primary Election day were related to the phones and precinct cans and if corrected, will things run smoother during the General Election. CEO Nago responded that aside from the late opening of polling sites, these two items did attribute to most of the problems experienced on Primary Election Day.

Commissioner King asked Election Administrator Yoshioka from the County of Kauai, how long it takes to pack the precinct cans. EA Yoshioka responded that for the County of Kauai, the packing of the cans starts about two weeks prior to the election. He also noted that it is not a difficult process but you need to be meticulous when packing the cans because you want to make sure that the can is packed correctly.

Commissioner Masunaga asked for clarification on the packing process. EA Yoshioka explained that the packing process begins with gathering and preparing the items that are going to be packed in the cans. These items are then packed in the order listed on the packing sheet. For the County of Kauai, the Warehouse Supervisor and one staff person are responsible for packing the cans.

Commissioner Orikasa commented that the Commission has concerns however, he feels that since the Hawaii County Clerk now knows what problems and issues occurred, she will be able to resolve and avoid them.

Commissioner Masunaga also commented that she and Commissioner Kitaoka attended a debriefing at the West Hawaii Civic Center with both CEO Scott Nago and County Clerk Kawauchi. She felt that the Election Day workers were very positive. CEO Nago also noted that it is very important for us to provide the Election Day workers with the proper tools so it is easier for them to do their jobs on Election Day. If necessary, Office of Elections will help train staff on how to pack precinct cans.

Commissioner Masunaga suggested that a recommendation should be made to County Clerk Kawauchi, to take warehouse staff with her to the Maui workshops so that they could be trained to pack precinct cans. Maui County Clerk Kuwada noted that he has already extended that invitation to the Hawaii County Clerk. Commissioner Okazaki asked if County Clerk Kawauchi responded to this invitation and County Clerk Kuwada responded that she has not.

VII. Status report on the progress of the county election workshops

Chair Marston asked if the workshops held were beneficial to the workers. CEO Nago responded that the workshops did benefit the people who attended them. He noted that each county is unique and it was a good opportunity for the Office of Elections to learn how things are done in other counties. We were also able to take the best practices from the other counties and use them to better our practices.

Chair Marston asked if the County of Hawaii had sent staff to attend these workshops and CEO Nago responded that she had sent four (4) staff members to attend the first workshop.

VIII. Discussion on status of preparations for the 2012 General Elections

Chair Marston asked CEO Nago if there are any issues that the Commission should be aware of. CEO Nago reported that the ballot printing has started and the mailing of the overseas ballots to overseas voters is on schedule.

Commissioner Orikasa asked the County Clerks in the audience if there were any unusual issues as they prepare for the General Election. County Clerk Kuwada responded no, they have been able to work through any issues they encountered. Commissioner Orikasa asked if it would be beneficial to forward any unique or new situations to the Big Island County Clerk for her information and education. County Clerk Kuwada responded that he is generally briefed but he relies on his Elections Administrator to handle and resolve election related issues. He also noted that his Elections Administrator works with her counterparts when addressing these issues and these issues are usually resolved before they become insurmountable. CEO Nago also noted that when these types of issues arise, they are discussed and resolved as a group knowing that if the incident happened in one county, there is a possibility that it may happen in another.

Commissioner Masunaga reported that she provided for County Clerk Kawauchi and Deputy County Clerk Steve Lopez, a binder which contained the reports from Maui County, Kauai County and the City and County of Honolulu. Also included was the Primer on Hawaii Elections, the summary of issues that occurred on Primary Election day in Hawaii County prepared by the Office of Elections on August 24<sup>th</sup> and a timeline of communications which was also prepared by the Office of Elections.

City Clerk Bernice Mau asked Commissioner Masunaga if there was anything she could share from the meeting that she and Commissioner Kitaoka had with County Clerk Kawauchi. She asked the two Commissioners if they felt

comfortable enough that County Clerk Kawauchi was on the right tract. Commissioner Masunaga noted that she was hesitant to say much since this was an issue discussed in Executive Session. She did note however, that the meeting did last about two hours and personally, she felt good about the meeting. She doesn't feel that we are there yet, but feels that positive steps have been taken to go forward in a positive way to build voter confidence.

IX. Executive Session

Approval of Minutes for the August 22, 2012

Pursuant to Haw. Rev. Stat. 92-5, consult with counsel regarding the Commission's powers, duties, privileges, immunities and liabilities related to the 2012 Elections

Chair Marston moved for the Commission to go into executive session. Motion was seconded by Commissioner Berg and carried unanimously.

The Commission resolved into executive session at 11:03 am and reconvened in open session at 11:40 am.

Chair Marston announced that the Commission has elected not to go forward with the investigation requested by the League of Women Voters. He explained that the Commission wishes to keep things in a positive light and move forward with a successful General Election.

XIII. Adjournment

Commissioner Masunaga moved that the meeting be adjourned. Motion was seconded by Commissioner Young and approved unanimously by the remaining Commissioners.

Date for the next Elections Commission meeting has not been set.

Elections Commission meeting was adjourned at 11:43 a.m.

Respectfully submitted,



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Carolyn L. Roldan  
Elections Commission Secretary