



**STATE OF HAWAII
ELECTIONS COMMISSION**

MINUTES

WILLIAM B. MARSTON
ELECTION COMMISSION CHAIR

**REGULAR MEETING OF THE
ELECTIONS COMMISSION**

**JANUARY 11, 2013 @ 10:00 AM
STATE OFFICE TOWER
235 SO. BERETANIA STREET, ROOM 204
HONOLULU, HAWAII 96813**

Commissioners in Attendance:

Mr. William Marston, Chair
Ms. Patricia Berg
Mr. Charles King
Ms. Carol Kitaoka
Ms. Xara Marshall
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. Auli'i Tenn, Office of Elections

Guests in Attendance:

Mr. Taizo Braden, KHON
Mr. Carroll Cox
Ms. Marsha Joyner
Mr. Jeffrey Keating, Department of the Attorney General
Mr. Justin Konno, KHON

Ms. Shirley Magarifuji, County of Maui
Ms. Pat Nakamoto, County of Hawaii
Mr. Glenn Takahashi, City and County of Honolulu
Mr. Lyndon Yoshioka, County of Kauai

PROCEEDINGS

I. Call to Order

Chair Marston called the meeting to order at 10:00 a.m. on January 11, 2013, at the State Office Tower, Room 204.

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 December 28, 2012, Elections Commission Meeting

With no additions or corrections to the minutes, Chair Marston asked for a motion to approve the minutes. Commissioner Young moved that the minutes be approved and Commissioner Berg seconded the motion. The Elections Commission approved the minutes unanimously.

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

Marsha Joyner asked the Commission if she would be able to give her testimony after the sub-committee's findings are reported. Chair Marston replied yes.

V. Status report from the Chief Election Officer

The office is now entering into a non-election year. The terms for the seasonal staff has ended and the office is now operating with its base staff. The office is also preparing for the 2013 Legislature and is starting the design work for the online voter registration system. This online voter registration system will allow anyone with a state ID or drivers license to register online.

Commissioner Berg asked if someone from our office will be working with the Office of Information Management and Technology. CEO Nago responded that the Office of Elections still needs to meet with the Chief Information Officer from OIMT to discuss how to proceed with this project. He also noted that everything related to this project will have to go through them. Commissioner Orikasa asked if monies have been appropriated and CEO Nago responded yes and he also explained that the OE had been waiting until after the election was done before beginning any work on this project.

Commissioner Marshall asked CEO Nago what is being done about the staff vacancies in the office. CEO Nago explained that the office vacancies are the Ballot Operations Section Head, a Computer Services Analyst and a Warehouseman. These positions are currently slotted to be converted to Civil Service. Once the conversion is completed, recruitment for these positions will begin.

VI. Discussion on upcoming special election

CEO Nago reported that there will be no special election on the State level. If there is a special election on the County level, the Office of Elections will assist as much as it can.

VII. Report of the Sub-Committee findings of the 2012 General Election ballot short

Commissioner Young stated that he and Commissioner Okazaki interviewed the former Chief Election Officer from Hilo and his comments and insight will be reported in Executive Session. He also noted that this was the last interview and the sub-committee's investigation is complete.

Chair Marston asked for a motion to go into Executive Session. Commissioner Young moved that the Commission go into Executive Session and the motion seconded by Commissioner Orikasa and approved by the unanimously by the rest of the Commission.

VIII. Executive Session

The Commission resolved into executive session at 10:09 a.m.

Approval of Minutes for the December 28, 2012 meeting.

Pursuant to Haw. Rev. Stat. 92-5 (a)(4)

Consult with the Commission's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities and action, if appropriate.

Executive session reconvened in open session at 11:54 a.m.

XIII. Adjournment

Chair Marston asked Ms. Marsha Joyner if she was ready to give her testimony. Ms. Joyner stated that she would rather wait until the Commission reported what the findings of the sub-committee were.

Chair Marston wanted to state once again that the Commission takes very seriously the issues that were raised regarding the ballot shortage during the General Election. To address this, a sub-committee was formed to investigate the incident thoroughly and has reported its findings to the Commission. The sub-committee interviewed numerous Office of Elections employees in an effort to investigate the three principle reasons for the ballot shortage. The three reasons are the calculation of the number of ballots, the availability of ballots and the delay in the transportation of the replacement ballots. The Commission is satisfied that the circumstances of this incident have been sufficiently investigated. As a result, and in accordance with the law, the Commission cannot deliberate or make any decisions until the next Commission meeting which is scheduled for January 25, 2013.

Marsha Joyner testified that since the two members of the sub-committee were tasked with the investigation and no funding was provided for them, she would like to know if anyone documented the interviews, how were the interviews conducted, are these materials open to the public and because they were not given any monies, how did the process work. Since the Commission was not able to report the findings at this meeting, Ms. Joyner stated that she will be at the next meeting to hear the findings and ask her questions. She would also like to know how it would be possible to determine if this was incompetence or a conspiracy and what is being done to insure the public that this will not occur during the next election. She would also like to know if there is going to be new staff and who will be held responsible. She noted that, as stated in her previous testimony, this incident is a violation of the 1965 Voting Rights Act as amended in 1973. To deny the public a device with which to vote is a felony and the ballot is a device used to vote. She also noted that she previously notified the Commission at an earlier meeting that she has filed a complaint with the Department of Justice and she will wait to hear the Commission's report on the findings of the investigation before she proceeds with her complaint.

Commissioner Marshall asked Deputy AG Chun if it was possible to share any more information with the public so that they would be able to understand why they need to wait until the next meeting to hear the investigation findings. Commissioner Marshall also noted for Ms. Joyner that she understands the concerns voiced in her earlier testimony and she assured Ms. Joyner that the Commission takes those concerns very seriously. Deputy AG Chun noted that the Commission is not required to answer any questions at this time but may respond to them if they wanted to. Commissioner Marshall explained to Ms. Joyner that it's not that the Commission does not want to comment at this time but cannot due to legal requirements. Ms. Joyner then asked if this meant that she and the public will have to wait until the January 25th meeting before they can hear the investigation findings.

Commissioner Young explained that there were two parts to this investigation, one was operational and the other involved personnel issues. Since there were personnel issues, the Commission needs to comply with labor laws and practices and noted they were not trying to avoid answering anyone's questions but will address them at the next meeting. Ms. Joyner said that she understood and will be at the next meeting to hear the investigation results.

Also testifying was Mr. Carroll Cox. He stated that after listening to the information provided, he had the following questions that he would like answered at the next meeting. He asked that the Commission provide the names of the persons interviewed, was the Governor or any other politicians interviewed, was Mr. Nago interviewed regarding this matter, did the sub-committee review the complaints and comments from precinct workers and will those complaints and comments be made available for public review and what resources did the Commission rely on to draw their conclusions. He also noted that he would like to get copies of the precinct worker comments and complaints. He further asked what the mission statement of the Commission was when conducting the investigation and what was the criteria set for the sub-committee when conducting this investigation or was this just a scavenger hunt. He asked what professional investigative resources did the sub-committee rely on when conducting this investigation as an example, a retired policeman or investigators or did the Commission rely solely on the sub-committee and their abilities and role as committee members. He also asked that the Commission clarify the status of Commissioner Young. Mr. Cox stated that he has tried to research the minutes but it does not reveal Commissioner Young's appointment history and his qualifications. He also asks that the Commission answer the questions he submitted at an earlier date. He states that he wants to believe in the process but is discouraged and feels that integrity needs to be restored.

Chair Marston for a motion to adjourn the meeting. Motion was moved by Commissioner Young, seconded by Commissioner Okazaki and approved unanimously by the remaining Commissioners.

Next Commission meeting has been scheduled for January 25, 2013 at 10:00 a.m. at the State Office Tower.

Elections Commission meeting was adjourned at 12:11 p.m.

Respectfully submitted,



Carolyn L. Roldan
Elections Commission Secretary