



**STATE OF HAWAII
ELECTIONS COMMISSION**

MINUTES

WILLIAM B. MARSTON
ELECTION COMMISSION CHAIR

**REGULAR MEETING OF THE
ELECTIONS COMMISSION**

**FEBRUARY 5, 2014 @ 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. Zale Okazaki
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. Judy Gold, Office of Elections
Ms. Carolyn Roldan, Office of Elections
Mr. Rhowell Ruiz, Office of Elections
Mr. Aaron Schulaner, Office of Elections

Guests in Attendance:

Ms. Shirley Magarifuji – County of Maui
Ms. Nina Magoun – Kauai Republicans
Mr. Danny Mateo – County of Maui
Ms. Pat Nakamoto – County of Hawaii
Mr. Josiah Nishita – County of Maui
Ms. Leissan Sadykova – Common Cause
Mr. Ricky Watanabe – County of Kauai
Mr. Lyndon Yoshioka – County of Kauai

PROCEEDINGS

I. Call to Order

Chair Marston called the meeting to order at 10:00 a.m. on February 5, 2014 at the State Office Tower, Room 204.

II. Roll Call and Determination of a Quorum

Elections Commission Secretary conducted roll call. Commissioners Marshall and Kitaoka were not in attendance.

III. Approval of Minutes for the November 7, 2013 Elections Commission Meeting

With no corrections to the minutes, Chair Marston asked for a motion to approve the minutes. Commissioner King moved that the minutes be approved, the motion was seconded by Commissioner Vierra and approved by the remaining Commissioners.

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

Nina Magoun stated that she was testifying in the interest of promoting split shifts in order to retain the older, more experienced and dependable poll workers. She testified that the OE study said it was decided the split shift pilot project will take place in the City and County of Honolulu and she wanted to ask again if it would be possible to include the County of Kauai in this pilot project since Kauai County is smaller and she is the island wide recruiter for one party. She also feels that there could be some good data obtained by using the County of Kauai.

Commissioner Berg noted that the minutes for the last meeting reflected that Ms. Magoun was asked to work with the Office of Elections on the poll worker recruitment program for the County of Kauai. She asked if that happened and Ms. Magoun responded no. Commissioner Berg noted that she was under the impression, as she was sure Ms. Magoun was also, that this was going to happen. Commissioner Berg then deferred to CEO Nago to explain why this did not happen.

Commissioner Orikasa asked if it would be more appropriate to have this discussion under Agenda Item no. VI. Chair Marston agreed and deferred this discussion to Agenda Item no. VI.

Ms. Magoun continued to testify that she would like to target the age group of 71 and older for this pilot project since they have proven to be a dependable, reliable and knowledgeable group of volunteers. Because of their value, this would be the target group that she would like to keep on as volunteers. She also noted that she forwarded Judy Gold a list of suggestions which included more news advertisements when recruitment is in progress and leaving a sign-up sheet outside of the polling place so that voters can sign up, as they leave, if they were interested in working at the polls in future elections. She also noted that poll book certification should be done continuously during the day versus doing it with a team after the polls are closed.

Commissioner King asked Ms. Magoun if both people participating in the split shift project would have to meet the 71 year old age requirement. Ms. Magoun responded yes.

Commissioner Vierra asked Ms. Magoun if she had discussed her proposals with the Kauai County Officials to see if they were willing to oversee this proposal. Ms. Magoun responded no since at the November meeting she was asked to work with CEO Nago. Commissioner Vierra noted that in reading OE's proposal, it indicates that doing the pilot project in Honolulu was proposed because of the way the process is set up and doing the pilot project on Kauai would require the approval of Kauai County. Ms. Magoun asked CEO Nago if he spoke with Kauai County and CEO Nago asked the Commission if they wanted him to discuss it now or during Agenda Item no. VI. Chair Marston asked to defer this discussion to Agenda Item no. VI.

Commissioner Vierra noted that he was curious if Ms. Magoun did have discussions with the Kauai Officials regarding this matter and if they are willing to do this. Ms. Magoun responded that she has had discussions with them in the past regarding several suggestions but knows that generally the decisions are considered for island wide practice. She also noted that she just recently learned that Honolulu has paid staff to do recruitment. She continued to note that the statutory provision is that all qualified political parties shall submit a list of names for precinct officials to the Chief Election Officer by a deadline date. After the deadline date, if the parties fail to submit names, the Office of Elections may fill the positions regardless of party affiliation.

V. Status Report from the Chief Election Officer

CEO Nago reported that since the last meeting, the Office of Elections has been focused on legislation, the on-line voter registration project and preparation for the 2014 Elections. He reports that the OE has been forwarding to the Commission the Legislation Tracking Sheet along with any testimony that has been submitted. He

asks that if the Commission has any comments or input, to please forward it to the OE for consideration to be incorporated into testimony at the earliest possible time.

CEO Nago further reports that an RFI has been issued for the on-line voter registration project and as of last week, there were approximately 9 responses. The OE is currently reviewing the responses in preparation for issuing an RFP for the on-line voter registration system. Commissioner King asked CEO Nago if he considers the responses good and CEO Nago responded that based on the industry, he would say yes.

CEO Nago continued to report that Candidate Filing has started as of February 3, 2014 and will close on June 3, 2014. The office is also in the process of verifying political parties and they have until February 20 to submit their petitions to qualify. Chair Marston noted that the Libertarian Party has qualified and CEO Nago responded yes and they are currently in their contest period. He also noted that the open primary litigation will not impact the 2014 elections and the Kostic v. Nago et al has been dismissed by the Supreme Court.

Chair Marston asked CEO Nago how his staffing situation is. Chair Marston recalled that there was a request made to the Governor to approve hiring election staff. CEO explained that there was a freeze on hiring but the freeze has since been lifted by the Governor and OE is on schedule in phasing in seasonal staff.

Commissioner King asked CEO Nago if there is any legislation in particular that the Commission should be concerned with. Commissioner Okazaki noted that she does have concerns regarding the legislation that requires the Commission to evaluate the CEO twice a year. She notes that no other positions, to her knowledge, requires an evaluation twice a year. Commissioner Vierra asked who would be responsible in drafting and giving testimony for this type of bill. CEO Nago responded that, as in past practice, the public would normally give testimony but there would no reason why the Commission could not present testimony for this bill.

Chair Marston wanted to clarify if this meant that the Commission would appear before the Legislature to present testimony. Commissioner Okazaki responded that she felt it would be sufficient to submit testimony in writing. Chair Marston agreed to draft testimony and circulate it among the Commission for comments and recommendations. This draft will then be held and submitted when the bill comes up for hearing.

Deputy AG Kunimoto suggested that a vote be taken to draft this testimony. Chair Marston asked for a motion and it was moved by Commissioner Okazaki, seconded by Commissioner King and approved unanimously by the remaining

Commissioners. Chair Marston will draft it and get it to the Commission Secretary as soon as possible for circulation and completion.

VI. Discussion on Nina Magoun Poll Worker recommendations and action, if appropriate

CEO Nago apologized to the Commission if he gave them the impression at the last meeting that he will be working with Ms. Magoun to implement this program on Kauai. He noted that he agreed to work with her to see if this program was feasible for future implementation. He stated that the State is statutorily responsible for precinct officials and not the counties. He referred to the 2012 Elections in which delegation to the County of Hawaii was rescinded.

CEO Nago continued to explain to the Commission that the OE decided it would like to implement the split shift pilot project here on Oahu since we are physically present on Oahu, we have the recruitment staff here on the island and we could oversee and study the pilot project. He noted that conducting this pilot project on another island without the OE presence may not be wise. Suggestions made by Ms. Magoun will also be taken into consideration when implementing the pilot project.

CEO Nago explained that the pilot project will not be limited to the older work force but instead organizations and non-profits will be targeted. He also feels that the Precinct Chairs will have to buy into doing this pilot project since they will be affected if there are no show workers. Commissioner King asked if the Precinct Chairs have already been consulted or if it was still a little early. CEO Nago responded that it is still early because there is a statutory deadline date for the political parties to submit their names for poll workers. Historically they have never submitted a sufficient amount of names so the Office of Elections has always had to do open recruitment for poll workers. At the current time, we have the returning chairpersons but are still not fully staffed with chairs.

Commissioner Berg stated that the Precinct Operations person will be hiring three (3) new people with no previous experience for this election season to do recruitment. These new people will in turn be working to implement this program by recruiting workers from nonprofits, also with no experience. She feels this is not setting the program up for success and the OE plan is making this project a little more complicated than what Ms. Magoun has proposed which appears to be a more contained program. Commissioner Berg further noted that she feels the OE is expanding the program to include recruiters who have no experience. CEO Nago asked what she meant by no experience. Commissioner Berg responded that recruitment here is not done on a party level as it's done on the neighbor islands where parties submit names for poll workers. CEO Nago responded that even on

the neighbor islands, political parties do not submit a sufficient amount of names for workers and he reiterated that the State is also responsible for recruiting on the neighbor islands. The State relies on the Counties to assist with recruitment since we are not physically located there. He further explained that the reason why we will use nonprofits is because their turnout ratio is much higher and they are able to find coverage within their group should there be no shows. It's easier than us having to find coverage for individuals who do not show up.

Commissioner Okazaki asked who were the nonprofits that are being talked about and CEO Nago responded that it would be anyone with a 501(c)(3) status. As an example, in the past the OE has used sports teams, schools and parents doing fund raising, and Project Grad. He also notes that the show up rate for nonprofits on election day is much higher than individuals because they are doing the work to fund raise for their organization.

Chair Marston noted that he read the report prepared for the split shift project and feels that it may not be a good idea to try and implement this for the 2014 elections. He apologized to Ms. Magoun and noted that the Commission, CEO Nago and the Office of Elections is under a microscope for this upcoming election and he is not comfortable with trying to embark on a new project. He feels this project has merit but would like to see it deferred for this election year so that the Office of Elections can run a smooth election. He also feels that holding off until the next election would allow everyone to assist in better developing the project.

Commissioner Orikasa commented that he was not in agreement. He feels that it is exciting that the public has stepped up and came up with ideas to assist in trying to make things better. He also feels good that CEO Nago and the Office of Elections, despite knowing the challenges they face in the 2014 elections, has looked over this proposal and is willing to try it on a small scale instead of putting it on the back burner. Commissioner Orikasa further notes that he also shares Chair Marston's concerns regarding accountability and the importance of having a smooth election and would defer the management of operations to CEO Nago.

Commissioner Vierra asked CEO Nago if he had the choice, based on the circumstances of the last election and the current split shift proposal, would he go forward with the project. CEO Nago responded that he would do the project if he could follow the proposal the Office of Elections came up with such as using nonprofits and having the Chairpersons agree to participate in the project. Commissioner Young asked when OE would be able to find out if the Chairs will buy into this project. CEO responded that we could begin polling the Chairs as soon as a decision to go forward is made. He also noted for the Commission again that it would be important for the Chairs to agree to participate in this pilot project.

Chair Marston asked CEO Nago if he felt he could do this on Oahu and CEO Nago responded yes because we would be able to follow the plan the OE put out and monitor the recruitment and progress of the project. We could also be able to attend trainings to make sure the participants are trained the right way. Since we do not have a presence on the outer islands, we could not monitor and make sure that the project is progressing successfully there. Chair Marston asked CEO Nago if he feels that the OE can go forward with this project without jeopardizing the elections and CEO Nago said yes.

Commissioner King asked CEO Nago about Ms. Magoun's testimony noting if there was a problem it would be at the end of the day. CEO Nago responded that he was not quite sure what Ms. Magoun was referring to because the person that is in charge of logging the incidents of the day would not be a "split" person. The person logging the incidents should be there the entire time.

Commissioner Young asked CEO Nago if there was a plan in place to do the split shift pilot project. CEO Nago responded that the plan is that the pilot project will be done on Oahu, it would be limited to nonprofits, and split shifts would not involve the Chairpersons and VAO's. Commissioner Young then asked if a detailed plan could be made for the Commission. Commissioner Okazaki also asked if a figure with regards to "bodies" could also be included. She also commented about the difficulty of working long hours at the polls. CEO Nago noted that he understood and for that reason wanted to make sure that the recommendations for split shifts from Ms. Magoun were taken seriously and done correctly so that the pilot project would succeed.

Commissioner Berg stated that she also shared the Chair's concerns and understands why CEO Nago would like to do the pilot project here so that the OE could maintain control and make sure the pilot project succeeds. Commissioner King also noted that having the pilot project done here, the OE could better observe the events that would take place during the election.

CEO Nago stated that it was important for the OE to be able to attend trainings to make sure that the training is done correctly. The OE would not be able to attend trainings on the neighbor islands but would be able to attend them here and catch and address any issues that may come up.

Commissioner Berg asked CEO Nago if he expects feedback from workers with experience who have been working for a while at the polls and are not able to participate in the pilot project due to nonprofits with no experience. CEO Nago responded that a number of the nonprofits do have experience since they have worked in previous elections. Commissioner Vierra asked CEO Nago if he had a number for the amount of precincts that would be involved in the pilot project. CEO

Nago responded that he thought it would be limited to one (1) pair per precinct which is approximately 150 precincts here on Oahu or a total of 300 recruits.

Commissioner Okazaki commented that there was no cost effect to doing split shift. CEO Nago agreed.

Commissioner Berg commented that precinct official recruitment is done differently on the neighbor island in comparison to Oahu. CEO Nago responded that it's basically the same since the neighbor island recruiters do the same thing as the recruiters on Oahu. The difference is that the Office of Elections is statutorily responsible for the recruitment and the neighbor island county is not. They assist us in the recruitment of precinct workers and we appreciate their assistance.

Commissioner Berg asked CEO Nago how the OE maintains a balance at the polls, does the OE have to ask party affiliation when it does recruitment. CEO Nago responded that once the deadline date for the political parties to submit their names passes, it becomes open recruitment and the responsibility of the OE to recruit poll workers. If the parties want their party members working at the polling places for "balance", they must submit their list of names by the deadline date set by statute. Commissioner Berg asked if the City Clerk on Oahu also works on this. CEO Nago responded no, precinct operations is the sole responsibility of the State. The counties are responsible for absentee voting and voter registration and the state is responsible for everything else. The difference with the neighbor island counties is that some duties, such as the election day counting center and precinct operations, are delegated to them since we are not physically located there. Here on Oahu, the City Clerk is strictly responsible for absentee voting and voter registration.

Chair Marston asked the Commission if CEO Nago's plan is acceptable. Commissioner Young said the plan is acceptable pending the report that he was asked to prepare. Chair Marston asked for a motion to move forward with the Split Shift Pilot Project pending CEO Nago's procedural report that was requested by Commissioner Young. The motion was approved by the Commission.

Ms. Magoun noted for the Commission that she feels using younger people for the split shift pilot project may not be as successful as using her target group of the older more experienced and reliable workers. She also notes for the Commission that in the Utilization Report, the State has a fill rate of 85% for the Primary and 89% for the General. She further noted that Kauai has a fill rate of 94% for the Primary and 96% for the General and they also recruit alternates for no shows. She asked POPS Section Head Judy Gold if the packets with deadlines and names of former workers have been sent out yet. Ms. Gold told her that they may be ready sometime this month. CEO Nago clarified for the group that the list Ms. Magoun is

referring to is the one that is sent to all the political parties. Finally, Ms. Magoun noted for the Commission that she likes the idea of utilizing nonprofits and students, but has had some problems with them and hopes that Oahu is more successful. She also notes that the basis on which the decision was made to conduct the pilot project misses the foundation blocks of her proposal. However, she wishes the OE success because she would like to see retention among the older experienced and reliable poll workers.

VII. Discussion on 2014 Legislative Bills as they affect the Office of Elections and action, if appropriate

CEO Nago noted for the Commission that along with the list of bills being followed during the legislative session, the OE has also been forwarding hearing notices and testimony that have been submitted to the Legislature. He asks that if the Commission has any comments or opinions that fit our mission statement, please submit them to the OE as soon as possible prior to the hearing for consideration to be included in the OE testimony.

Commissioner King asked if it is possible to submit testimony on their own and electronically. CEO Nago responded yes and noted that the OE currently sends hearing notices to the Commission for their information.

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

Chair Marston explained to the Commission that as he reviewed the Sunshine Law materials, he found the Open Forum subject on sample agendas. Based on comments from audience members during previous meetings, he added this new item to the Election Commission agenda to give individuals the opportunity to ask the Commission to consider future agenda items. This Open Forum was not added on to open up discussions or initiate debates during Commission meetings.

Commissioner Orikasa noted that he interpreted the Open Forum item differently. He felt that the Open Forum agenda item is there to give the public an opportunity to have a voice. Chair Marston responded that he did not want to open a debate with the audience, however, he did want to give them the opportunity to voice their concerns and have the Commission consider their concerns for the next meeting's agenda. The public could then offer testimony on the agenda item at the next meeting. He also noted that at the present time, he works with the Commission Secretary to put together a draft agenda. The draft agenda is then sent to the Commission to get comments and agenda item suggestions. His intent in adding this item on the agenda was to solicit meaningful topics for discussions at future meetings.

Commissioner Orikasa noted that the Commission should still decide on what becomes an agenda item. Chair Marston agreed. Commissioner Okazaki commented that it would not be fair for the Commission to have to engage in conversations with the audience on topics that they were not able to prepare for. Again the Chair agreed and noted that the intent of having the Open Forum on the agenda was to allow the public to propose a topic of conversation and to also allow the Commission to decide if the topic would be included on the next meeting's agenda. This would give the Commission time to prepare for any discussion. He also noted that he intended to have this discussion during the Sunshine Law training. Since the training has been deferred to another meeting, he will have this discussion with them at the next scheduled training.

Deputy AG Kunimoto noted for the Commission that she felt this was a good idea since the Chair was trying to solicit new ideas and topics for discussion. She also feels the Chairs' attempt at transparency is good.

IX. Adjournment

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

Next Commission meeting is scheduled for Friday, March 28, 2014.

Elections Commission meeting was adjourned at 11:04 a.m.

Respectfully submitted,



Carolyn L. Roldan
Elections Commission Secretary