



**STATE OF HAWAII
ELECTIONS COMMISSION**

MINUTES

WILLIAM B. MARSTON
ELECTION COMMISSION CHAIR

**REGULAR MEETING OF THE
ELECTIONS COMMISSION**

**FEBRUARY 20, 2015 @ 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. Ruth Limtiaco
Ms. Terry Lynn Moore
Mr. Warren Orikasa
Mr. Victor Vierra
Mr. Danny Young

Technical Support Staff in Attendance:

Ms. Pat Ohara, Department of the Attorney General
Mr. Scott Nago, Chief Election Officer
Ms. Mercy Griggs, Office of Elections
Ms. Carolyn Roldan, Office of Elections
Mr. Rhowell Ruiz, Office of Elections
Mr. Aaron Schulaner, Office of Elections
Ms. Aulii Tenn, Office of Elections

Guests in Attendance:

Ms. Shirley Magarifuji - County of Maui
Ms. Janet Mason - League of Women Voters
Mr. Danny Mateo - County of Maui
Sen. Donna Mercado Kim
Mr. Dan Purcell
Mr. Ricky Watanabe - County of Kauai
Ms. Brigitte Yoshina - Office of Sen. Mercado Kim

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 20, 2015 at the State Office Tower, Room 204.

New Elections Commissioner Ruth Limtiaco was sworn in by General Counsel Aaron Schulaner. After the swearing in Chair Marston announced that Commissioner Limtiaco is replacing former Commissioner Okazaki who served a total of eight years. He noted that the Commission owed Commissioner Okazaki a debt of gratitude for her service.

II. Roll Call and Determination of a Quorum

Elections Commission Secretary conducted roll call. Commissioner Kitaoka was not in attendance. All other Commissioners were in attendance and the Commission had a quorum.

III. Approval of Minutes for the November 14, 2014 Elections Commission Meeting

Commissioner Moore asks that her comment stating that the Commission should focus on transparency, public access and addressing low voter turnout statewide be added to the minutes under agenda item no. VI.

Commissioner Orikasa moved that the minutes be approved. Motion was seconded by Commissioner Berg and approved by the remaining Commissioners.

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

Dan Purcell - testified that he would like to see a projector or slides used when the Chief Election Officer is giving his report.

Sen. Donna Mercado Kim - testified that there are concerns about elections. She states that in accordance with HRS §11-8.5, the Commission is supposed to conduct a biennial evaluation of elections operations and submit its findings and recommendations to the Legislature no less than 20 days prior to the opening of the Legislature on biennium years. To date, according the Legislative Reference Bureau, this has not been done since 1994 when this statute was put into place.

She states that this is very troubling and she has concerns that the law is not being followed and the Commission is not performing its duties. She asks that the Commission expedite this report and submit it to the Legislature. She also states that these concerns have been put in writing and given earlier to the Commission.

Commissioner Berg notes that for future years, evaluations will need to be done early enough so that these reports can be prepared and submitted in a timely manner to the Legislature.

Chair Marston asks Sen. Kim what would be acceptable at this point to remedy this situation. Sen. Kim responds that she cannot comment on what would be acceptable but in light of the problems during the elections, a report of the Commission's findings should be prepared and submitted.

Commissioner Orikasa noted that in previous Commission meetings, the Commission had conducted thorough discussions on the problems and issues that occurred during the elections. The Commission also discussed remedies for these problems and these discussions have all been documented in the Commission meeting minutes. He asks if that would be considered adequate. Sen. Kim responds that according to the statute, the Commission needs to conduct a biennial evaluation of the elections operations and submit its findings and recommendations to the Legislature no less than 20 days prior to the convening of the legislative session. The Commission will need to consult with the AG to see if the minutes constitute the report that is required. Commissioner Orikasa noted that he wanted to state that the Commission was not totally derelict in its responsibilities. Chair Marston agreed and noted that the Commission did investigate and address issues from this past election and issues from the 2012 elections. Chair Marston noted that the Commission will respond and her concerns will be addressed.

Commissioner Moore thanked Sen. Kim for bringing her concerns to her personal attention as well as the attention of the Commission. She states that awareness is curative.

Sen. Kim noted that perhaps a procedure should be put in place that would remind the Commission when reports are due. Commissioner Limtiaco agreed and asked if a report could be put together and submitted now rather than waiting two years. Commissioner Moore also agrees that this should not be put off and an effort should be made to complete it now.

Janet Mason - Ms. Mason testified that 2015 has an unprecedented number of voting and election bills being heard at the legislature. Many of these measures

are tied into the work of the Commission and she hopes that the Commission will discuss these bills with the Office of Elections staff.

Ms. Mason further testifies that the League of Women Voters is tracking about 25 of these measures and they are providing testimony on most of the bills. Voting by mail and voter education for ballot measures are advancing. The LWV decided to hold back their own voting by mail measure since there are at least five (5) bills with the same intent advancing. She states that the LWV supports the gradual conversion to voting by mail since voters are increasingly preferring this method of voting. She states that the LWV is skeptical of the 2016 start date since this is a major process change which includes such things as rulemaking to implementing the law, distribution for ballots identified and securing of mail vendors. With all of the things that need to be considered and addressed, the LWV feels that 2018 for implementation would be wiser.

Ms. Mason also testifies that the new U.S. Census figures have been released. The figures now show that the number of people in Hawaii who are eligible to register to vote but remain unregistered is now around 400,000. The LWV is very concerned about this large number but feels that online voter registration and registration at early vote centers beginning in 2016 should help. She also notes that the Legislature is looking at automatic voter registration when renewing a driver's license. An opt-out clause has been added in order to comply with the NVRA and avoiding allegations of coercing an individual to register to vote.

Ms. Mason testifies that as Sen. Kim stated earlier, low voter registration is not being ignored by the Legislature and Ms. Mason feels that it is not being ignored by elections officials either. She states that she is not sure what it will take to achieve a turnaround but encourages the preservation of same day registration and voting by mail.

She testifies that in recent years there has been an insufficient amount of voter education for ballot measures and the ballot measure language is complicated for most voters. It is a concern for the LWV and she notes that there currently is a bill moving in the legislature that will require the preparation of a statement in "plain English" to explain what the ballot measures mean. The LWV does not have a preference on who should prepare these statements. The LWV also feels that the Counties should also have someone prepare similar statements for their County Charter Amendments.

Ms. Mason further notes that for Agenda Item No. VII, the LWV supports the effort to evaluate the Chief Election Officer and recommends that the evaluation be conducted after a General Election instead of after the Primary Election. She states that the performance evaluation is a personnel matter and should not be

made available to the public. Furthermore, requests for a written report of the evaluation to the Legislature needs to be clarified. The report the Commission is currently required to submit to the Legislature asks for a report on elections operations and recommendations. This is not the same thing as a performance evaluation of the Chief Election Officer. The LWV also opposes any efforts to change the term of the Chief Election Officer to two years.

Commissioner Orikasa asked Ms. Mason if increasing the number of registered voters would decrease the percentage of actual voters. She responds that there are two parts to the voting equation. One would be to get a greater number of people registered and other would be to get the registered voters to actually vote. She states that both are challenging but she feels that unless you get more people registered, you will not get more voters. So the LWV vigorously supports the same day registration

V. Status Report from the Chief Election Officer, discussion and action, if appropriate

Commissioner Berg asked if the Chief Election Officer could give his status report but combine the legislative portion of his report with agenda item no. VI so that legislative issues can be discussed together. Chair Marston asked if that was alright with the Commission and there were no objections.

CEO Nago reported that the Supreme Court dismissed the Tommy Waters case for cause and the 2014 election results were certified. He also reported that the OE is closely tracking several legislative items that he will discuss during the next agenda item. He reports that the deadline to disqualify political parties is coming up in March and the OE is working on determining which political parties obtained the requisite amount of votes in certain contests to remain a qualified political party.

CEO Nago further reports that the larger project that the OE is currently working on is online voter registration for the 2016 election. The goal for this new system is to have it operational by August 2015. This system will allow anyone with a Hawaii driver license or a Hawaii State Identification to be able to register to vote online. CEO Nago states that the OE is currently working with the counties and the vendor to ensure that the online voter registration system will mirror the current procedures that are being used to process voter registration applications. The OE is also working with the Office of Information Management and Technology and the Information and Communication Services Division to ensure that the new system complies with the Governor's directives on new technology. CEO Nago states that the OE is also working on migrating the current statewide voter registration system with a newer system.

Commissioner Berg noted that she thought she read that the current legislation for online voter registration states that if a driver license or a state ID is unavailable, the last four digits of the social security number would be used. CEO Nago explained that if an individual wants to register online, they would need a driver license or a state ID because signature verification would need to be done. This however does not preclude anyone from registering to vote. The individual would instead have to fill out a registration form instead of registering online.

Commissioner Moore thanked CEO Nago for the clarification and feels there should be a voter education component because there were major issues on Maui because some felt that the signature requirement was a way of preventing individuals from registering to vote.

Commissioner Limtiaco asked CEO Nago who the vendor was and he responded BPro who is located in South Dakota. She then asked if he was confident that he will meet the August 3rd target date and he responded yes. She asked if it will be beta tested and he responded yes, prior to August 3rd. She also asked if there is a plan for voter education and he responded yes, there is a voter education component in place. She asks how this is going to be done and if the vendor does part of it. CEO Nago responded that it will be a little of both. Literature will be printed and voter education will done through media, television and radio. Commissioner Limtiaco asks if there is a formal written plan and CEO Nago responded yes. The Office of Elections has a Voter Services section that does voter education and outreach. Commissioner Limtiaco asks if it is possible to see the plan and CEO Nago responds yes.

Commissioner Vierra asks if the online voter registration system software precludes under age people from registering to vote. CEO Nago responds that in our state, the law allows an individual to preregister at the age of 16 years. When those individuals turn 18 years of age, their names move to a different list and they become eligible to vote. Commissioner Vierra asks if the software is able to do that and CEO Nago responds yes.

Commissioner Moore states that she is very pleased that this is being done because it encourages more voter participation and it also encourages the youth to participate in the system of voting and becoming volunteers even before they are eligible to vote.

Commissioner Limtiago asks if the online voting system will be made available on mobile devices. General Counsel Aaron Schulaner responded that they are looking into it.

Commissioner Berg asks about the nonprofit group discussed in previous meetings, that was supposed to go out and register individuals in targeted areas with a low voter turnout. She asked if the figures previously requested of people registered to vote are available. CEO Nago responds that he will ask the City to provide those figures after they compile them and he will pass those figures on to the Commission when he receives it. Commissioner Orikasa comments that he recalls asking that same question and was told there was no significant increase in the numbers.

Commissioner Moore asks about the Voter Services section. She wanted to know how large it was and if it was only based on Oahu. CEO Nago responds that it is based on Oahu in the OE with a staff of five and they are responsible for the entire state. All voter education is coordinated and done statewide through media, television and radio. She asks if Voter Services coordinates with other counties. He responds yes and explains that since the OE does not have staff on the neighbor islands, so it relies on the counties for assistance. She asks how that's done and CEO Nago explains that the OE is responsible for such things as polling places and counting of ballots on election day and the County Clerks are responsible for voter registration and absentee voting. Therefore, the OE works closely and relies heavily on the counties for assistance. Commissioner Limtiaco then asks if the OE is planning on doing any online advertising. CEO Nago responded that it was done in the past and the OE can look at that possibility again.

Commissioner Moore asks if it is possible to provide information on the budget for the Voter Services section. Her interest would be what part of the budget is for voter education. CEO Nago responded that he could provide the Commission with that information. He explained that voter education was never funded in the past but in the current budget request before the Legislature, a request for voter education has been made. In the past, Help American Vote Act (HAVA) funds were used and relied on for voter education.

Commissioner King asked CEO Nago if the advertising on the television and radio was purchased by the OE. CEO Nago responded yes.

Commissioner Vierra noted that using split shifts to man polling places was discussed during previous meetings and he wanted to know how that worked out. CEO Nago responded that the OE limited the split shifts to nonprofits but the nonprofits did not take advantage of it. There were a few agencies that did explore the possibility but recruitment may have been a problem since you would have to recruit double the amount of people needed. Commissioner Vierra noted that the individual from Kauai that originally presented this idea to the Commission seemed to be ready to implement this idea. He asked if it would be

possible to try something there. CEO Nago said that he will visit that possibility this time around.

Commissioner Young asked CEO Nago if the nonprofits were contacted early enough to give them time to organize. CEO Nago responded yes, nonprofit recruitment is started at the beginning of the year and nonprofits that have previously worked are contacted early. Commissioner Young asked if the presentation used to recruit nonprofits is written out. CEO Nago responded no, telephone contact is done with the nonprofits. Commissioner Young suggested that a written presentation be prepared for the recruitment of nonprofits. Commissioner Moore agreed and felt that it would be a better approach.

Commissioner Orikasa noted that on the island of Maui he visited three precincts that were manned by nonprofits. These same nonprofit groups also assisted in covering the void in another precinct so he feels using nonprofits is working.

Commissioner Moore inquired whether there are other private sources, other than HAVA, that could be used for voter education, voter registration and possibly other components that could increase voter turnout. CEO Nago responded that he is not aware of other types of funding but if anyone knows of other possible sources, please let the OE know and the OE will look into it.

Commissioner Vierra asked if the fees paid to volunteers is set by law and can it be changed and increased. CEO Nago responded that the pay is set by rules and it can be changed.

Commissioner Limtiaco asked if the \$142,000 request is based on a plan and does the plan show how the monies will be spent. CEO Nago said yes, there is a plan in place. She asked if she could see the plan and CEO Nago responded yes, he will have the Commission Secretary send out the plan.

Commissioner Moore asked CEO Nago if any monies was received from ADA. CEO Nago responded that a grant was given in the past. Commissioner Moore asked if the OE can reapply for grant monies. CEO Nago responded that the grant monies was a one time deal and not an ongoing availability of funds

VI. Discussion of 2015 Legislative Bills as they affect the Office of Elections and the Elections Commission and action, if appropriate

Chair Marston noted that there are a number of election related bills traveling through the Legislature. He asks the Commission to decide if there's any legislation that it would like to respond to. He states that it has never been done in the past but if the Commission would like to respond to any of the current legislation, it would have to vote on whether it will submit testimony, form a

permitted interaction group to develop testimony and present the testimony to the Commission at the next meeting so that they could vote on it.

Commissioner Berg stated that there is current legislation that would hold the Office of Elections responsible for voter turnout. She feels that the Office of Elections could be held responsible for maximizing voter registration but does not know what can be done to hold the Office of Elections accountable for voter turnout. She noted that she is in favor of developing and giving testimony for that piece of legislation. CEO Nago told the Commission that based on its current movement, this bill will probably die after today.

Commissioner King noted that he has concerns regarding SB287 which covers replacement ballots. His concern is primarily with duplicate ballots. CEO Nago explained that currently, if an individual requests an absentee ballot and makes an error on it, the system will invalidate that ballot once a replacement ballot is generated and sent to the voter. If the voter returns both ballots, the invalidated ballot will not be counted.

Commissioner Berg wanted to discuss the voting by mail legislation. CEO Nago explained that the OE supports voting by mail and has provided comments to the legislature. The Senate bill took the OE comments into consideration however, we do not know what the House is considering since the committee reports have not been posted. The main concern the OE has is the high number of vote centers that the bill wants to establish. Other jurisdictions that have voting by mail have less voting centers. Commissioner King asked if this would be a county responsibility and CEO Nago responded that in the bill it would come under the state but the OE supports that it comes under the counties. The voting by mail bills also have different phase in dates. The House bill asks that voting by mail begins with Kauai County in 2016, and phasing in the Maui and Hawaii County in 2018, and then the City and County of Honolulu in 2020. The Senate bill is asking that Kauai County begins in 2016 and the rest of the counties will phase in for the 2018 election. The OE supports the House bill which allows the counties of Maui and Hawaii to transition in 2018 and finally the City and County of Honolulu in 2020. He also noted that Kauai County was selected to phase in first because it is the smallest county with the highest absentee voter number.

Commissioner Berg states that she has reservations because she feels 2016 may be too soon. She notes that all mail voting will introduce new concerns which will require proper procedures in place. She asks CEO Nago if the development of these procedures has started. CEO Nago responded that voting by mail is not a new concept to the OE. Special elections by mail have been done in the past so procedures are in place. The start date of 2016 was chosen by the Legislature and not the OE. If that is the date the Legislature wants, the OE will do it with a phase in.

Commissioner Moore asks if AB walk sites will still be set up for those who have concerns about voting properly and wishing to use them. CEO Nago responds yes, federal law requires AB walk sites to address accessibility issues. Commissioner Moore states that it is important for individuals to know that it is still possible for them to go to these sites if they wish to do so.

Commissioner Vierra asks CEO Nago how he would remedy a situation where legislation will benefit the Office of Elections but adversely affect the funding for the counties. CEO Nago asked if there was any legislation in particular that he was referring to. Commissioner Vierra stated that it is just a general question since Hawaii County has expressed some concerns about them losing funding. CEO Nago responded that if it is the legislation he is thinking of, the OE provided testimony to the Legislature saying it would negatively impact the counties.

Commissioner Berg asks how one would get a replacement ballot for a spoiled ballot, could a replacement ballot be sent electronically. CEO Nago explains that the individual would have to call and request a replacement ballot. A completely new replacement ballot will be generated and sent to them. As indicated earlier when addressing Commissioner King's concerns, envelopes are uniquely coded to avoid duplicate voting. Commissioner Moore asks if this is something that procedures are already in place for since these situations are already happening. CEO Nago responded yes.

Commissioner Berg asked how many voter assistance centers are being opened. CEO Nago responded that this issue is currently being discussed before the Legislature. Commissioner Berg asks if there will be a savings since fewer voter assistance centers will be used versus the number of polling places used in the past. CEO Nago states that there will be some savings.

Commissioner Vierra asked if the spoiled ballot number was higher than normal in the last election. CEO Nago responded that there are two types of spoiled ballots. One type is when the voter votes incorrectly, the other is when the envelope is not signed properly. He states that they did not see an increase in the number of spoiled ballots in this past election.

VII. Discussion and review on method of evaluation for the Chief Election Officer and action, if appropriate

Chair Marston stated that the term for the Chief Election Officer expires in February of 2016. He wanted to begin the evaluation process early so that the Commission can either decide on whether they would like to do a reappointment or perhaps start a recruitment process. An evaluation of the CEO was done in

early 2011. He noted that the Commissioners have been given copies of the evaluation forms that were used at that time.

Chair Marston stated that a subcommittee consisting of himself, Commissioners Okazaki and Soares was formed. An evaluation formula, forms and recommendations were done and presented to the Commission for approval. The forms included one for the County Clerks, one for each Commission member and one self evaluation form for the CEO to complete. Discussions were also held with the County Clerks since they were an important part of the process and they worked closely with the Chief Election Officer. Lastly, a letter from the employees of the Office of Elections was received. This letter supported and encouraged the appointment of CEO Nago.

Chair Marston asked the Commission how they would like to proceed. He asked if a subcommittee should be formed to review and perhaps make changes to the current forms. After that is completed, the Commission can begin the evaluation process for the CEO.

Commissioner Limtiaco asked to defer her comments since she has not had an opportunity to closely review the forms. Commissioner Orikasa stated that he was good with the current forms and Commissioner King noted that he felt it was a fair process. Commissioner Berg noted that she had a few comments on the form that the Commissioners used and felt that one or two things should be added to the form. She also felt that the form used by the County Clerks was excellent and objective and the self evaluation form used by the CEO was also good.

Commissioner Young noted for Commissioner Limtiaco that previously, he and Commissioner Okazaki met with the CEO on a monthly or bi-monthly basis. He noted that if she would like to continue this it would be fine, if not that's fine too. He also felt that he would like to hold off discussions until the new Commissioners had time to review the forms.

Commissioner Vierra said that he reviewed the forms when he received them the other day and he found them to be comprehensive. He feels that things can always be improved upon so he would like to hear the input from the new Commissioners.

Commissioner Moore thanked Commissioner Young for bringing up the meetings that he was having with the CEO. She stated that she knew there was an ongoing involvement and hopes that going forward she can be involved because she feels she can be an asset because of her previous involvement and experiences while working in the system and viewing it from a State and County perspective. Commissioner Young noted that he and Commissioner Okazaki

would meet with CEO Nago and his staff to try and assist if a serious matter would come up. They would try to address it before waiting for the next meeting if necessary. Commissioner Moore restated that she wanted the Commission to know that she is willing to take on the additional responsibility if necessary and assist if needed.

Commissioner Limtiaco asked how the meetings with the Chief Election Officer relates to the evaluation of the Chief Election Officer. She asked if the meetings were site inspections or was it related to the evaluation process. Commissioner Young responded that it did not relate to the evaluation process. He just wanted to let her know what was done previously and if she would like to continue fine if not perhaps they can come up with a new plan. He also noted that he and Commissioner Okazaki did this because they were already here on Oahu and he had planned to discuss this with her at the end of the meeting.

Commissioner Orikasa asked the Chair if the suggestions that Commissioner Berg has could be forwarded to the Commission for review before the next meeting. This would give the Commission time to review her thoughts before addressing them at the next meeting. Deputy AG Pat Ohara noted that it would be alright as long as there is no deliberation and discussion among the Commissioners.

Chair Marston states that if there are no changes to the former procedures the Commission can go forward and start the evaluation of the Chief Election Officer at the next Commission meeting. He also feels that since there are new Commissioners on board, they can review the forms and make suggestions at the next meeting since the process is starting early.

Commissioner King stated that he has concerns since it was pointed out to the Commission that the report to the Legislature is late. So the sooner that can be addressed the better.

Commissioner Limtiaco notes that instead of forming a new committee, she would like to see suggestions made by the Commission and discuss them at the next Commission meeting. She also asks how often this evaluation is required. Chair Marston responds that the evaluation is not required at the moment but due to the incidents that surrounded the past few elections, an evaluation of the Chief Election Officers performance was done. He restates that the term for the Chief Election Officer ends in February of 2016 so he wanted to get a job performance evaluation done in preparation for the selection process.

Commissioner Berg asks for clarification, if the Commission waits until the next meeting to discuss any recommendations and changes, does that mean that the Commission cannot begin the evaluation then but needs to wait until the

following Commission meeting to begin evaluation. Chair Marston responds that is correct. She noted that she is not sure what the other Commissioners are going to recommend but she is recommending adding another question and adding on a few words to an existing question both of which would not require a lot of time to decide on.

Chair Marston noted that as a courtesy to the new Commissioners, giving them some time to digest what is taking place is important. Commissioner Moore agrees noting the recent changes in the Commission.

Commissioner Young asks if it's possible to make a motion which will state that Commissioner Berg make her suggestions and allow the Commission time to review and digest the existing evaluation materials along with Commissioner Berg's comments and recommendations. At the next Commission meeting, the Commission can discuss all recommendations and comments and decide on how they want to proceed.

Commissioner Vierra asked the Chair, if the Commission discussed and agreed to changes at the next meeting, why would the Commission have to wait until the following meeting to begin the evaluation process. He asks if it would be possible to begin the evaluation after the changes have been approved. Chair Marston answered that he didn't see why not. Commissioner King noted that the evaluation was a three part process which also includes giving the forms to the County Clerks and the CEO for his self evaluation.

Commissioner Limtiaco stated that she would second the motion made by Commissioner Young. Chair Marston asks the Commission for their vote, all said yes and the motion passed.

Commissioner Berg recommends adding the following question to the Commission evaluation form: "Does the Chief Election Officer demonstrate those skills and abilities identified in the job description?" She also asks that "the public" be added to the question: "How effectively does the Chief Election Officer respond to requests from the Commission and the public?" Finally, she asks that we add "and the public" to the question: "How well does he accept suggestions and recommendations from the Commission and the public?" since they are similar questions. Commissioner King notes that the questions for the Commissioners is subjective whereas the questions for the County Clerks has a numerical rating system and asks if she would suggest that the same method be applied to the Commissioners questions. Commissioner Berg responds no.

Chair Marston asks for clarification, if he understands correctly, these suggestions and others that are made would be under review at the next

Commission meeting and the Commission will go forward from there? The Commission responds yes.

Commissioner Limtiaco asks if suggested changes will be sent to the Commissioners before the next meeting. Commissioner Berg asked if these suggestions will be documented in the minutes. Commission Secretary responds yes to both and if suggestions are sent to her, she will forward them out to the Commission for review before the next meeting.

VIII. Discussion of Video Conferencing the next Elections Commission meeting, discussion and action, if appropriate

Chair Marston notified the Commission that the OE was able to secure video conferencing sites for the next Commission meeting. The date reserved was Tuesday, April 7th. He explains that the Commission members would meet at the Kapolei site and the video conferencing sites on the neighbor islands would be open as courtesy sites for the public to provide comments. Commissioner King asks if the sites on the neighbor islands will have staff and the Commission Secretary responded yes. She states that if the Commission agrees on the date and the meeting is firm, she will arrange to have the sites manned by either County staff, if they are available and agree, or staff from OE will be sent there. Commissioner Berg asks if staff from the County Elections Administration can be designated to assist with the video conferencing. CEO Nago responded that the OE does not have staff on the neighbor islands that can be designated. The Commission Secretary reiterated that she will contact the County and ask for their assistance. If they are not available, the OE will have to send someone there, either way, someone will be at the video conference site.

Commissioner Moore asks if the meeting time could be more flexible for the public, perhaps starting at 12 noon for those who want to attend during their lunch. The Commission Secretary responded that Commission meetings start at 10:00 am and end when the Commission completes its business. The Office of Elections provides transportation for those who come in from the neighbor islands to and from the meeting location.

Chair Marston made the motion to accept the proposed meeting date of Tuesday, April 7th. The motion was approved by the Commission. The next meeting date will be on April 7, 2015.

Commissioner Vierra asked if video conferencing will be how future meetings will be held. He's concerned with whether people will be attending and the expense that will be involved in conducting video conferencing meetings. He questions if this is something that will need to be budgeted for in the future. Commission Secretary noted that the Commission was lucky to be able to reserve all the sites

for this meeting. This may not always be the case. As mentioned previously, the Commission needs to provide several possible dates 90 days in advance to scheduling future meetings.

Commissioner Berg questions what options would be best to get the word out to the public letting them know that there will be a video conference meeting without generating a large expense. Chair Marston suggests asking the County Clerks for assistance and perhaps generating a press release. Commissioner Orikasa asks if the posting of the meeting notice as required is sufficient. Commissioner Moore commented that since this is a public system she would like to see whatever can be done to get the word out to the public. She notes that she is committed to help in any way to make sure that this information is given out to the public.

- IX. Open Forum: Public comments on issues for the Commission's consideration for the next Commission meeting and action, if appropriate. Presentations limited to three minutes.

Chair Marston explained for the benefit of the new Commissioners, that there have been concerns voiced by the public with Public Testimony being listed early on the agenda instead of at the end. To address those concerns, he added the Open Form agenda item to give the public the opportunity to ask for clarification on items discussed and to ask for items to be considered for the next meeting agenda. He asks the audience if there are any comments.

Janet Mason - from the LWV asks the Commission what their plans are for fulfilling the requirement of submitting the report due to the Legislature. Chair Marston said he will bring it up for discussion in Executive Session. Commissioner Limtiaco asked, since Senator Kim brought it to their attention, if the agenda could be amended to open up discussion on how the plan will be handled. She did not feel that this should be discussed in Executive Session. Chair Marston said he had no problem with discussing it now. General Counsel Schulaner suggested that since it touches on a legal matter, the Chair should discuss amending the agenda with his legal counsel when she returns before he opens this up for discussion. Commissioner Moore asks if it would be appropriate for the Commission to concur and agree to make this a priority. General Counsel Schulaner responds that they are currently in the Open Forum agenda item. The Commission can basically discuss if this discussion can be put on the next meeting agenda but if they get into a detailed discussion there may be violation of the Sunshine Law. Commissioner Moore then asks if it would be possible to discuss and concur that something needs to be sent to the Legislature to let them know that the Commission apologizes and is working on submitting a report to them. General Counsel Schulaner said that he would defer that to their legal counsel since that discussion is not an agenda item.

Upon her return, Deputy Attorney General Pat Ohara told the Commission that they did have the option of amending the agenda to discuss Senator Kim's comments and what they will do but they would need a two thirds vote to do so. Commissioner Moore asks if it would be appropriate for the Commission to come up with a basic response of apology and letting them know that the Commission is working on completing the report. Deputy AG Ohara said yes because it would not be considered a substantive discussion like what would be put in the report but rather just a response.

Commissioner Moore made a motion to amend the agenda to discuss a response to Senator Kim's comments made at today's meeting. This will be added on as Agenda Item No. X after Agenda Item No. IX - Open Forum. The motion was seconded by Commissioner Berg and approved by the remaining Commissioners.

Dan Purcell - states that he applauds the Commission for holding a video conferencing meeting since it is a very important step and hopes that an effort is made to get the word out to the public. He is concerned that the Oahu location is in Kapolei and it is a distance to travel.

Commissioner Berg asks how the information will be passed on to the public. Recommendations made were public service announcements and a press release. It was noted that the agenda, as required, will be filed with the Lt. Governor's Office and posted on the State Calendar, the OE website, and the bulletin board at the State Capitol. It will also be sent to the list of those who have requested an advanced copy of the meeting agenda. Commissioner Limtiaco asked that the OE Voter Services section draft a press release and she would like to see it before it is released.

- X. Amended agenda add on item - discussion on response to Senator Kim's comments regarding the report to the Legislature

Chair Marston asks the Commission for suggestions for the response to Senator Kim. Commissioner Orikasa notes that under this agenda item, we could acknowledge the oversight and that we would look into it. Commissioner Moore states that at the very least, a letter should be written and it should acknowledge the oversight and inform her that the report will be completed as soon as possible. She also states that the effectiveness, purpose and usefulness of this Commission is questionable in some minds and the Commission needs to be aware of how the public views the Commission.

Commissioner Limtiaco states that it would be only fair to the Commission's staff to have a reasonable deadline to put together this late report. Chair Marston explained

to Commissioner Limtiaco that the Elections Commission has no staff and the report will have to put together by the Commission. He explains that he may ask for some assistance from General Counsel Schulaner and the Attorney General but the report itself is put together by the Commission. He then asks if a subcommittee should be formed because he feels the Commission should be together to discuss and agree on what should be reported. He states that he will draft the letter to Senator Kim and circulate it for comments from the Commission. Commissioner King asks if the section that the Senator quoted could be circulated so that the Commission knows what is required.

Commissioner Berg states that the purpose of the Commission submitting a report of the operations of elections to the Legislature is so that they can take action and come up with legislation to address the concerns the Commission has. She feels that the Commission has missed that opportunity and questions if a report should be submitted. She feels that there should be an acknowledgement that there was an oversight and say that it will not happen again.

Commissioner Moore feels that it is the Commission's responsibility to make an attempt to complete the report and show that an effort is being made to be compliant with the requirement since the Senator did comment about it at today's meeting. She also feels that the report, even though submitted late, can be used in the future to address the concerns the Commission may have.

Chair Marston will pass on the language that Commissioner King has asked for. He will also ask for input from the Commission and have it sent to the Commission Secretary to have it assembled so that the draft report can be presented at the next Commission meeting for review.

Commissioner Young agrees with the Chair's recommendations. The Chair asks for a motion requesting that he prepare a draft report, have the Commission Secretary circulate the draft among the Commission to solicit their comments. The responses will be compiled by the Commission Secretary and presented for discussion at the next Commission meeting. The motion was seconded by Commissioner Young and approved by the remaining Commissioners.

Commissioner Vierra asked the Chair since the Commission has no staff, who is responsible for keeping track of what is to be prepared by the Commission. Chair Marston did not have an answer for that but feels that he should bear part of that responsibility. He states that he will discuss this with the Deputy AG to come up with a solution.

Ms. Mason from the LWV suggests that a request be made for staff for the Commission. Dan Purcell also suggests that a request for funds from DAGS be made for the Commission's expenses.

With no further business, the Chair asks for a motion to go into executive session. The motion was made by Commissioner Young and seconded by Commissioner Vierra and approved by the remaining Commissioners.

The Commission resolved into Executive Session at 12:28 pm

XI. Executive Session

Pursuant to Section 92-5(a)(4), HRS, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

Pursuant to Section 92-5(a)(2), HRS, to consider evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held.

XI. Adjournment

The Commission resolved into open meeting at 12:44 pm.

With no further business at hand, Chair Marston asked for a motion to adjourn the meeting. The motion was moved by Commissioner Young and seconded by Commissioner Vierra and approved by the remaining Commissioners.

Elections Commission meeting was adjourned at 12:45 p.m.

Respectfully submitted,



Carolyn L. Roldan
Elections Commission Secretary