



**STATE OF HAWAII
ELECTIONS COMMISSION**

MINUTES

WILLIAM B. MARSTON
ELECTION COMMISSION CHAIR

**REGULAR MEETING OF THE
ELECTIONS COMMISSION**

**JANUARY 25, 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
Ms. Sheri Ann Longoria, 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. Jai Cunningham, KHON
Ms. Marsha Joyner, MLK Coalition of Hawaii

Mr. Keoki Kerr, Hawaii News Now
Mr. Jeffrey Kuwada, County of Maui
Ms. Shirley Magarifuji, County of Mau
Ms. Janet Mason, League of Women Voters
Ms. Bernice Mau, City and County of Honolulu
Ms. Pat Nakamoto, County of Hawaii
Mr. BJ Reyes, Star Advertiser
Mr. Glenn Takahashi, City and County of Honolulu
Mr. Ricky Watanabe, County of Kauai
Ms. Alia Wong, Civil Beat
Ms. Lara Yamada, KITV
Mr. Lyndon Yoshioka, County of Kauai

PROCEEDINGS

I. Call to Order

Chair Marston called the meeting to order at 10:02 a.m. on January 25, 2013, at the State Office Tower, Room 204.

II. Roll Call and Determination of a Quorum

Elections Commission Secretary conducted roll call. Commissioner Victor Vierra was not in attendance.

III. Approval of Minutes for the January 11, 2013, Elections Commission Meeting

With no additions or corrections to the minutes, Chair Marston asked for a motion to approve the minutes. Commissioner Marshall moved that the minutes be approved and Commissioner Young 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 testified that Public Testimony is listed on today's agenda as item no. IV. She stated that the public was in attendance today to hear the results of the investigation and that discussion will take place in Executive Session which is closed to the public. She felt that this was not incompetence but a conspiracy. She noted that she had submitted questions in previous testimonies and those

questions had not yet been answered and she feels that this is some level of a conspiracy.

Ms. Joyner also stated that she intentionally included in her testimony, a timeline which shows that since the Declaration of Independence, only white men have been able to vote. Minorities have had to fight for the right to vote and she feels that even at this time, people need to fight for the right to vote. She also feels that the Commission is not being forthright with the public and therefore she feels there is some level of conspiracy and this is not fair to the voters. She stated that the agenda is inappropriate and public testimony should not be listed early in the meeting since the public has not heard the "meat" of the meeting.

Chair Marston explained to Ms. Joyner that the Commission is a group of individuals appointed by the Legislators of this State to oversee and work with the Office of Elections and noted that there is no cover up. He explained that there is a procedure in place that the Commission follows to address complaints and there may be issues that need to be discussed in Executive Session.

Ms. Joyner noted that she knows how the Commission is appointed and explained that her concerns come from her letters and questions, regarding the sub-committee's investigation, not being answered.

County Clerk Jeffrey Kuwada testified in support of Chief Election Officer Scott Nago and the retention of him in his position. He noted that when Mr. Nago took over the CEO position from his predecessor, there was turmoil. CEO Nago has worked short staffed and has managed the Counting Center operations. County Clerk Kuwada also feels that the challenges with the Big Island faced during the 2012 elections were not of Mr. Nago's doing and the circumstances were never witnessed before by him or any other election official. He also feels that when something goes wrong during an election, it hits the news. If things go right it does not become news.

County Clerk Kuwada also noted for the Commission that there was a high voter turnout and reports of ballot shortages did come up in his county but when follow up was done, there was a sufficient amount of ballots at the polling places. Only one polling place had to use their reserve ballots and that was only because the reserve ballot box was opened by mistake.

Commissioner Okazaki asked County Clerk Kuwada if the Maui County Counting Center was located close to the polling places lacking ballots, and he responded no. The Maui Counting Center is located in Wailuku and he has polling places in distant locations such as Hana, Lahaina, Molokai and Lanai. Because of this, they try to make sure that there are a sufficient amount of ballots at these

locations. Commissioner Okazaki asked if he had a similar experience in 2008 and he responded no. When asked questions about ballot calculations, County Clerk Kuwada stated that he would need to defer the technical questions to his Elections Administrator.

Commissioner Orikasa asked County Clerk Kuwada if there was a difference in coordination and support from CEO Nago and the prior Chief Election Officer and he responded yes. When CEO Nago assumed the position, communication immediately improved.

V. Status report from the Chief Election Officer

CEO Nago reported that since the last report, the Office of Elections has submitted two bills to the Legislature for consideration. One bill addresses the framework for conducting an all mail election and the second bill addresses changes to the permanent absentee ballot law. This bill would have absentee ballots sent to the address on record since voters update their voter registration status when there is a change but they do not necessarily update their absentee status.

CEO Nago also reported that the Office has begun planning meetings with the Counties for the 2014 elections.

Commissioner Marshall asked CEO Nago what *Kostic v. Nago* is as reported in his status report. CEO Nago responded that it is a reapportionment case.

Commissioner Berg asked if it would be possible to provide the Commission information on whether the Office of Elections supports, does not support, or has comments on the bills listed on the Legislative Tracking sheet. CEO Nago responded yes, the information will be provided.

With no further reports from the Chief Election Officer, Chair Marston asked for a motion to move into Executive Session. Motion was moved by Commissioner Okazaki and seconded by Commissioner Young.

VIII. Executive Session

The Commission resolved into executive session at 10:21 a.m.

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.

Deliberation concerning the sub-committee's investigation of the 2012 General Election ballot shortage and decision making, if appropriate.

Executive session reconvened in open session at 12:07 p.m.

Chair Marston asked that the sub-committee report the findings of their investigation into the 2012 General Election ballot shortage.

Commissioner Young reported that he and Commissioner Okazaki interviewed several of the Office of Elections staff at the Office of Elections. They also interviewed the former Chief Election Officer Dwayne Yoshina, who currently resides in Hilo. He stated that the sub-committee found that there was no wrong doing or unlawful things done. The sub-committee also found that there was no one cause but found that there were several procedural errors that occurred that need to be addressed. The Commission will work with the Chief Election Officer to address these issues and correct them.

Chair Martson stated that the Commission, during its deliberations, does acknowledge that there were mistakes made but not to the degree that it would justify the removal of the Chief Election Officer, therefore, the Chief Election Officer will be retained.

XIII. 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.

Elections Commission meeting was adjourned at 12:10 p.m.

Respectfully submitted,



Carolyn L. Roldan
Elections Commission Secretary