



STATE OF HAWAII ELECTIONS COMMISSION

MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

WRITTEN SUMMARY FOR VIDEO RECORD

REGULAR MEETING OF THE ELECTIONS COMMISSION

August 27, 2024 @ 10:00 a.m.

Note: The video of the meeting may be viewed on our website
at <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/>

PROCEEDINGS

The time reference below indicates the point in the video when the stated action begins.

I. Call to Order [10:00 a.m.]

The regular meeting of the Elections Commission was called to order by Chair Curtis.

II. Swearing In of New Elections Commission Members [10:04 a.m.]

New Commissioners Osterkamp and Young already signed their oath of office at the start of their term and took this time to introduce themselves to the Commission.

III. Roll Call and Determination of a Quorum [10:00 a.m.]

All members of the Elections Commission were present at the meeting with the exception of Commissioner Andrion.

IV. Legal Counsel to the Commission [10:02 a.m.]

Deputy Attorney General Bryan Yee introduced himself and stated that he will be answering some questions that were asked at the last meeting.

V. Approval of Minutes for the June 19, 2024 meeting [10:03 a.m.]

Commissioner Young made a motion to approve the June 19, 2024 minutes. The motion was seconded by Commissioner McAdam and carried unanimously noting the excused absence of Commissioner Andrion.

VI. Public Testimony [10:05 a.m.]

Public testimony was provided by Kellyna Campbell, Doug Pasnik, Kathryn Meyer Fenzl, Jamie Detwiler, Signe Godfrey, Andy Crossland, Jennifer, Adriel Lam, Haunani Kahea, Martin Choy, Ann Marie Hamilton, Nolan Chang, Rosemarie Jauch, Austin Martin, Paul Deslauriers, Brahkruz, Karl Dicks, Brett Kulbis, Tara Rojas, Jaerick, Sherilyn Wells, Ikaika Kailiawa-Smith, Jessica Priya, Tamara McKay, Wallyn Christian, Jennifer Cabjuan, Noela, Wendy Balidoy, Wendell Elento, Donald Sakamoto, Forrest, Shigemi, Keikilani Ho, Steve Yoder, Dave, Marcin Wyszogrodzki, Karen Fetzer, Gary Cordery, Shelby Billionaire, Lono Mack, Debra, Cece, Nicolette Vonwiegandt, Daniel Gabriel, and Mary Healy.

Commissioner Andrion entered the meeting at 12:14 p.m.

Chair Curtis and Scott Nago provided comments on public testimonies.

VII. Communications & Correspondence [1:21 p.m.]

Commissioner Andrion made a motion to enable the chat. The motion was seconded by Commissioner Cushnie. No vote was taken. [12:52 p.m.]

Commissioner Cushnie made a motion to have the Deputy Attorney General give his opinion on whether the Chief Election Officer has the authority to change the voting method from mail-in to day-of, in person voting, at the precinct with voter ID required. The motion was seconded by Commissioner Aquino. Motion **carried**. [1:01 p.m.]

YES: Andrion, Aquino, Cushnie, Curtis, McAdam, Papalimu

NO: Kuwada, Osterkamp

Commissioner Cushnie made a motion to request ballot box chain of custody documentation from the counties. The motion was seconded by Commissioner Aquino and **carried** unanimously. [1:20 p.m.]

YES: Andrion, Aquino, Cushnie, Kuwada, McAdam, Osterkamp
Papalimu, Young, Curtis

NO: N/A

Commissioner Cushnie made a motion to have all testifiers questions answered in writing by the chair within 15 days of the meeting and have it posted online. The motion was seconded by Commissioner Andrion. Motion **failed**. [1:23 p.m.]

YES: Andrion, Aquino, Cushnie, Papalimu

NO: Kuwada, McAdam, Osterkamp, Young, Curtis

Commissioner Cushnie made a motion to have the Deputy Attorney General answer his email on the removal of Scott Nago. The motion was seconded by Commissioner Aquino. Motion **failed**. [1:32 p.m.]

YES: Andrion, Aquino, Cushnie, Papalimu

NO: Kuwada, McAdam, Osterkamp, Young, Curtis

Commissioner Cushnie made a motion to remove Deputy Attorney General Leong and have his June 23, 2024 letter answered by the new Deputy Attorney General. The motion died for a lack of a second. [1:34 p.m.]

Commissioner Cushnie made a motion to sanction Deputy Attorney General Leong for insubordination. The motion died for a lack of a second. [1:35 p.m.]

Commissioner Cushnie made a motion to have Deputy Attorney General Leong answer the questions raised in previous meetings. There was no second and no vote was taken as the motion was followed by Deputy Attorney General Yee answering the six questions in the moment. [1:35 p.m.]

Commissioner Cushnie made a motion to ask the Deputy Attorney General how they can represent the Commission in court without advising the Commission that they are doing so. The motion was seconded by Commissioner Andrion. No vote was taken as the motion was followed by Deputy Attorney General Yee answering the question in the moment and agreeing to keep the Commission informed on any lawsuits filed against them. [2:04 p.m.]

Commissioner Cushnie made a motion to censure the chair. The motion was seconded by Commissioner Andrion. Motion **failed**. [2:08 p.m.]

YES: Andrion, Aquino, Cushnie, Papalimu

NO: Kuwada, McAdam, Osterkamp, Young

ABSTAINED: Curtis

Commissioner Cushnie made a motion to assign a special master to the investigation into sensitivity settings. The motion was seconded by Commissioner Aquino. Motion **failed**. [2:12 p.m.]

YES: Andrion, Aquino, Cushnie, Papalimu

NO: Kuwada, McAdam, Osterkamp, Young, Curtis

Commissioner Cushnie made a motion to have Scott Nago explain the legal definition of a ballot image. The motion was seconded by Commissioner Aquino. Motion **carried**. [2:18 p.m.]

YES: Andrion, Aquino, Cushnie, McAdam, Papalimu, Young

NO: Kuwada, Osterkamp, Curtis

Commissioner Cushnie made a motion to have the Deputy Attorney General answer the question of ballot constitutionality in this meeting and follow up in writing. The motion was seconded by Commissioner Andrion. Motion **carried**. [2:22 p.m.]

YES: Andrion, Aquino, Cushnie, McAdam, Papalimu, Young, Curtis

NO: Kuwada, Osterkamp

Commissioner Cushnie made a motion to put Scott Nago on probation for not responding to all inquiries within 14 business days. The motion was seconded by Commissioner Andrion. Motion **failed**. [2:23 p.m.]

YES: Andrion, Aquino, Cushnie, Papalimu

NO: Kuwada, McAdam, Osterkamp, Young, Curtis

Commissioner Cushnie made a motion to have Scott Nago tell the Commission about the 22-month rule and follow up with it in writing within 5 days. The motion was seconded by Commissioner Andrion. Motion **carried**. [2:31 p.m.]

YES: Andrion, Aquino, Cushnie, Curtis, McAdam, Papalimu, Young, Curtis

NO: Kuwada, Osterkamp

Commissioner Papalimu left the meeting at 2:32 p.m.

Commissioner Cushnie made a motion to advise the Chief Election Officer to forward to the legislature to have elections in person, one day, in the precincts, hand counting paper ballots. The motion was seconded by Commissioner

Andrion. Motion **carried** noting the excused absence of Commissioner Papalimu. [2:36 p.m.]

YES: Andrion, Aquino, Cushnie, Young, Curtis

NO: Kuwada, McAdam, Osterkamp

Commissioner Cushnie made a motion to have the Chair and Secretary acknowledge receipt of documentation sent to them and tell the sender what action will be taken with the document. The motion was seconded by Commissioner Andrion and **failed** noting the excused absence of Commissioner Papalimu. [2:38 p.m.]

YES: Andrion, Aquino, Cushnie, Young

NO: Kuwada, McAdam, Osterkamp, Curtis

Commissioner Cushnie made a motion to have the Office of Elections follow HRS 16-42 as it is written, by auditing a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts, counting all races on the ballots in accordance with HRS 11-125. No ballot images. The motion was seconded by Commissioner Aquino and **failed** noting the excused absence of Commissioner Papalimu. [2:42 p.m.]

YES: Andrion, Aquino, Cushnie

NO: Kuwada, McAdam, Osterkamp, Young, Curtis

Commissioner Cushnie made a motion to have the Deputy Attorney General answer in writing the legality of writing a certificate of election for the Governor and Lt. Governor prior to the 2022 election being certified. The motion was seconded by Commissioner Andrion and **carried** noting the excused absence of Commissioner Papalimu. [2:47 p.m.]

YES: Andrion, Aquino, Cushnie, McAdam, Young, Curtis

NO: Kuwada, Osterkamp

Commissioner Cushnie made a motion to recommend having the Chief Election Officer certify that the statutory requirements of HRS 11-155 are met prior to certifying an election. The motion was seconded by Commissioner Andrion. Motion **failed** noting the excused absence of Commissioner Papalimu. [2:50 p.m.]

YES: Andrion, Aquino, Cushnie, Young

NO: Kuwada, McAdam, Osterkamp, Curtis

Commissioner Cushnie made a motion to have the over under report be compared to how many ballots the county collected and handed the state, by precinct, using the chain of custody forms generated from the counties. The motion was seconded by Commissioner Aquino and **failed** noting the excused absence of Commissioner Papalimu. [2:52 p.m.]

YES: Andrion, Aquino, Cushnie, Curtis

NO: Kuwada, McAdam, Osterkamp, Young

VIII. Primary Election Metrics [2:54 p.m.]

Scott Nago stated that he will get back to the Commission with more finite numbers from the Counties as his office just wrapped up the election.

IX. Executive Session

The Commission did not enter Executive Session.

X. Adjournment [2:55 p.m.]

Chair Curtis adjourned the meeting.