



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

**MINUTES OF THE
REGULAR MEETING OF THE
ELECTIONS COMMISSION**

March 11, 2026 at 10:00 AM

Pursuant to Section 92-3.7, Hawaii Revised Statutes, the Elections Commission met remotely using interactive conference technology. The video of the meeting may be viewed on our website at: <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/>.

Commissioners in Attendance:

Michael Curtis, Chair
Dylan Andrion
Ralph Cushnie
Barbara Dalton
Lindsay Kamm
Jeffrey Osterkamp
Kahiolani Papalimu
John Sabas

Support Staff in Attendance:

Jordan Ching, Department of the Attorney General
Scott T. Nago, Office of Elections
Nicole Noel, Office of Elections
Aaron Schulaner, Office of Elections
Aulii Tenn, Office of Elections

PROCEEDINGS

I. Call to order [10:00 AM]

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

II. Roll call and determination of a quorum [10:00 AM]

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

III. Approval of written minutes from the February 4, 2026 meeting [10:01 AM]

Vivian Toellner provided testimony asking the Commission to stop further discussion of the 2024 Election since it has concluded and the terms are nearly complete.

Shelby Billionaire provided testimony thanking the Secretary for the quality of the meeting materials and minutes and expressing appreciation for their work.

Commissioner Dalton moved to approve the written minutes from the February 4, 2026 meeting. The motion was further amended to include the written opinion that Deputy Attorney General Ching sent to the Elections Commission. The motion was seconded by Commissioner Sabas and **carried** noting the excused absence of Commissioner Apana. [10:04 AM]

YES: Andrion, Cushnie, Kamm, Papalimu, Sabas, Curtis

NO: Dalton, Osterkamp

Commissioner Cushnie stated that the meeting minutes did not accurately reflect the Deputy Attorney General's oral opinion and requested inclusion of the written opinion in the minutes, while Commissioner Kamm supported adding a reference and summary of the opinion since it was discussed in open session.

Commissioner Cushnie moved to amend the motion, to approve the written minutes from the February 4, 2026 meeting, to include the written opinion that Deputy Attorney General Ching sent to the Elections Commission. The motion was seconded by Commissioner Papalimu and **carried** noting the excused absence of Commissioner Apana. [10:05 AM]

YES: Andrion, Cushnie, Kamm, Papalimu, Sabas, Curtis

NO: Dalton, Osterkamp

IV. Unfinished business [10:08 AM]

- a) Report from Commissioner Andrion's PIG regarding chain of custody

- b) Update from Commissioner Dalton on contact with USPS
- c) Update from Chair Curtis on letter to county auditors
- d) Letter from Commission to the Legislature requesting funding for Hawaii County audit

Commissioner Andrion requested to present their Permitted Interaction Group (PIG) report before public testimony. The Chair ruled to proceed with testimony first.

Commissioners Andrion and Cushnie objected and sought to appeal the ruling under Robert's Rules of Order.

Deputy Attorney General (DAG) Jordan Ching advised that either order is permissible under Sunshine Law, as long as testimony occurs before Commission action. Chair Curtis maintained the decision to proceed with testimony first.

Commissioner Andrion moved that the Elections Commission take public testimony after the PIG report is presented. The motion was seconded by Commissioner Cushnie and **carried** noting the excused absence of Commissioner Apana. [10:10 AM]

YES: Andrion, Cushnie, Kamm, Osterkamp, Papalimu, Curtis

NO: Sabas

ABSTAIN: Dalton

Commissioner Andrion presented their PIG report reviewing ballot chain of custody and accounting procedures for the 2024 General Election. He reported that Counties did not consistently provide required documentation or verifiable daily ballot counts, resulting in incomplete records and an inability to independently reconcile ballot envelopes with ballots counted. The report also noted inconsistencies in chain of custody practices and reliance on internal systems rather than independently verifiable records. He concluded with recommendations to standardize documentation and procedures, define chain of custody, incorporate independent reconciliation methods, and strengthen oversight to ensure future compliance.

Public testimony on Agenda Item IV (a):

Shelby Billionaire provided testimony expressing support for the recommendations presented, discussing election procedures and chain of custody requirements, and raising concerns about election administration in certain Counties.

Jennifer Hunt provided testimony stating that she had previously requested related records, raising concerns about discrepancies and recordkeeping practices, and emphasizing the importance of conducting the previously approved audit.

Vivian Toellner provided testimony stating that she supports accountability but encouraged the Commission to focus on improvements for future elections rather than revisiting the 2024 Election results.

Brennon Cabral (via Andrew Aker) provided testimony expressing concerns about election administration, transparency, and ballot accounting, and urged the Commission to consider changes to the voting system and procedures.

Austin Martin provided testimony expressing concerns about election administration and calling for accountability and further investigation.

Sherilyn Wells provided testimony expressing support for prior comments and the PIG report, raising concerns about mail-in voting, and suggesting additional measures to strengthen ballot security and voter registration records.

Jamie Detwiler provided testimony complimenting the investigative work of Commissioner Andrion and the PIG team and raised concerns about compliance with election regulations, ballot security, and voter roll accuracy.

Keoni Payton provided testimony complimenting the report's findings and raised concerns about election administration, ballot tabulation, and transparency.

Faith Burns provided testimony raising questions about the mail-in voting system and chain of custody procedures and expressing concerns about election transparency and potential improvements.

Susan Strom provided testimony expressing concerns about the certification of the 2024 Election, supporting additional election safeguards, and calling for greater accountability in election administration.

Michelle Stefanik provided testimony thanking Commissioner Andrion and the PIG team for their report, expressing concerns about election security, and urging the Commission to adopt the report's recommendations.

Doug Pasnik provided testimony referencing prior observations and documentation related to past elections, raised concerns about election procedures and recordkeeping, and requested that his previously submitted complaint remain on the Commission's agenda until resolved.

Jaerick Medeiros provided testimony expressing concerns about election administration and voting rights and urged that election responsibilities be returned to the Counties.

Tammy Ash Perkins provided testimony emphasizing the importance of transparency, accountability, and public confidence in elections, supported the PIG report, and encouraged consideration of restoring in-person voting options.

Bruce Yoakum provided testimony stating that the 2024 Election should be reviewed to restore public confidence, expressed concerns about mail-in voting, and supported consideration of in-person voting options.

Wallyn Christian provided testimony praising the PIG report, raising concerns about mail-in voting and election procedures, and urging the Commission to consider changes to the voting system and administration.

Joseph Akana provided testimony stating that the issues related to mail-in ballots have been ongoing for several years, supported the PIG report's recommendations, and encouraged further review to address and resolve these concerns.

Victoria Thompson provided testimony supporting prior testimonies and the PIG report and urged the Commission to consider removal of the Chief Election Officer.

Tamara McKay provided testimony expressing concerns about Commissioner engagement and accountability, supported the PIG report and its findings, and emphasized the need for transparency and adherence to election laws.

Tara Malia Gregory provided testimony supporting prior comments and the PIG report, raised concerns about elections laws and administration, and advocated for returning election responsibilities to the Counties.

Andrew Aker provided testimony requesting that the Commission hold a question-and-answer session with the public to address concerns and improve transparency.

Robyn provided testimony praising the PIG report, expressing concerns about election fairness, and supporting in-person voting and adoption of the report's recommendations.

A testifier identified only as "iPhone" provided testimony expressing concerns about corruption in the state's election system and encouraged seeking federal oversight and broader awareness of these issues.

Rob Burns provided testimony expressing concerns about election administration, advocating for leadership changes, and suggesting consideration of alternative voting methods.

Elizabeth C. provided testimony raising concerns about voter registration accuracy and election administration, supported the PIG report, and encouraged consideration of in-person voting and local ballot counting.

Public testimony on Agenda Item IV (b), (c), (d):

Keoni Payton provided testimony raising questions regarding a potential conflict of interest related to a Commissioner's prior employment and requested that the matter be noted for the record.

Jamie Detwiler provided testimony on agenda items related to election audits, emphasized the need to audit ballot envelopes for compliance, and proposed a cost-free approach using volunteers to conduct the audit.

Sherilyn Wells provided testimony on USPS-related issues, describing a personal experience with delayed mail delivery and suggesting that the Commission consider standards to ensure reliability and integrity in mail handling.

Joseph Akana raised a point of order inquiring whether the PIG report had been formally received and accepted by the Commission.

Shelby Billionaire provided testimony raising concerns about election administration and chain of custody procedures, and emphasized the need for transparency and solutions moving forward.

Jennifer Hunt provided testimony stating that USPS data renders certain updates unnecessary, emphasized the need to audit ballot envelopes to address discrepancies, and raised concerns about delays and agenda-setting for unresolved election matters.

Victoria Thompson provided testimony inquiring about the anticipated cost of ballot counting, offering assistance in coordinating volunteers, and requesting clearer points of contact and follow-up action items for the audit process.

Vivian Toellner provided testimony offering to volunteer for election audit efforts and noted that she had previously expressed interest without receiving a response.

Michelle Stefanik provided testimony supporting moving forward with the audit using volunteers and emphasized that previously approved unfinished business items should be included on the agenda.

Linda provided testimony offering to volunteer, along with others, to assist with counting ballot envelopes and expressed appreciation for the PIG report.

Wallyn Christian provided testimony thanking those involved in the PIG report, requested documented evidence related to USPS communications, and emphasized the need for an audit and consideration of changes to election administration.

Tara Malia Gregory provided testimony on agenda items, raised concerns about USPS information, prior communications, and audit timing, and emphasized the urgency of conducting the audit.

Austin Martin provided testimony on agenda items, alleging intentional misconduct in election administration, and called for accountability and further action by the Commission.

Enoka Shayne Bingo provided testimony emphasizing the need to address unfinished business related to election audits, encouraged better tracking of pending items, and offered volunteer support to assist with the audit process.

Sheryl Bieler provided testimony offering to volunteer for ballot counting and noted her prior experience with election-related roles.

Susan Strom provided testimony opposing legislative involvement in election audits, supported conducting audits independently and promptly, and emphasized the need for transparency and accountability.

Jaerick Medeiros provided testimony raising concerns about a potential conflict of interest, offering volunteer support for election-related work, and advocating for returning election responsibilities to the Counties.

Commissioner Dalton reported that she contacted a U.S. Postal Service representative regarding the Commission's request and was informed that the inquiry had been elevated to postal headquarters for legal review to determine whether a representative could address the Commission. She noted that a local postmaster could not provide an official response and that a USPS representative may be available for a future meeting pending approval.

Chair Curtis reported that no responses had been received from the County Auditors following the correspondence he sent to their offices.

Commissioner Cushnie moved that Chair Curtis write a follow up letter to the County Auditors. The motion was seconded by Commissioner Kamm **failed** noting the excused absence of Commissioner Apana. [11:38 AM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Dalton, Osterkamp, Sabas, Curtis

Commissioner Cushnie stated that previously approved items had not been returned to the agenda as unfinished business and requested follow-up, including matters related to signature verification and a prior complaint referred to the Attorney General.

Commissioner Cushnie moved to add the following items to unfinished business on the next agenda: Doug Pasnik's complaint ECC-25-006 from the October 29, 2025 meeting for referral to the Attorney General and the motion made on June 19, 2024 regarding an investigation on signature verification. The motion was seconded by Commissioner Papalimu and **failed** noting the excused absence of Commissioner Apana. [11:41 AM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Osterkamp, Sabas, Curtis

ABSTAIN: Dalton

Commissioner Papalimu requested that the Chief Election Officer designate the Commission to conduct an audit, including counting ballot envelopes. Commissioner Cushnie supported the request, citing discrepancies in counts. Commissioner Kamm noted the law allows for a designated representative and that such an audit could verify results.

Commissioner Papalimu moved that Scott Nago designate the Elections Commission as an interested party so they can legally audit the County of Hawaii

votes. The motion was further amended to change the term from interested party to designated representative. The motion was seconded by Commissioner Cushnie and **carried** noting the excused absence of Commissioner Apana. [12:29 PM]

YES: Andrion, Cushnie, Kamm, Papalimu, Curtis

NO: Dalton, Osterkamp, Sabas

Commissioner Kamm moved to amend the motion, that Scott Nago designate the Elections Commission as an interested party so they can legally audit the County of Hawaii votes, to change the term from interested party to designated representative. The motion was seconded by Commissioner Papalimu and **carried** unanimously noting the excused absence of Commissioner Apana. [12:35 PM]

V. Discussion on the procedure for appointing a new Commission Chair following Chair Curtis' term expiration on June 30, 2026 [12:48 PM]

Shelby Billionaire provided testimony expressing support for moving forward with the matter, encouraging action by the Commission, and commenting on leadership considerations.

Austin Martin provided testimony expressing concerns about the process for selecting leadership, urging adherence to proper procedures and transparency, and encouraging the Commission to allow the process to proceed fairly.

Alohalani Hope Cermelj provided testimony urging timely action on election-related issues and emphasizing the importance of addressing voter concerns.

Susan Strom provided testimony emphasizing the importance of voting rights, encouraging greater public involvement in decision-making, and urging the Commission to consider constitutional principles and the will of the people in its actions.

Michelle Stefanik provided testimony opposing the use of executive session for selecting the next Chair, emphasizing that the process should be open to allow public input and transparency, and expressing concern that current leadership does not reflect the will of the people.

Tamara McKay provided testimony urging the Commission to follow Robert's Rules of Order to fairly select a new Chair without defaulting to judicial appointment.

Jennifer Cabjuan provided testimony criticizing current leadership, urging Chair Curtis to resign to speed up the selection of new leadership, and called for stronger election oversight and reforms to restore confidence.

Tara Malia Gregory provided testimony supporting prior testimony, encouraged the Commission to continue making practical decisions, and urged the creation of a clear succession plan for the Chief Election Officer moving forward.

Keoni Payton provided testimony expressing relief that Chair Curtis is stepping down, suggested he resign immediately, and urged the Commission to choose a replacement who supports transparency and allows greater public involvement in the process.

Wallyn Christian provided testimony suggesting that the public, rather than the Commissioners, should choose the next Chair, emphasizing the need for leadership that follows the law, remains unbiased, and prioritizes the will of the people.

Melvin Amaral provided testimony criticizing the Commission for failing to ensure election integrity, expressed support for leadership changes, and called for stronger oversight and adherence to constitutional voting standards.

Commissioner Papalimu proposed establishing a deadline for applications before proceeding with candidate selection, suggesting April 30 to allow time for review and interviews. An amendment was introduced to set the application deadline accordingly.

Commissioner Dalton proposed reviewing and potentially revising applicant criteria prior to solicitation; however, after guidance from DAG Ching that no statutory criteria exist and changes could be subject to challenge, the proposal was withdrawn.

Commissioner Cushnie moved that the Office of Elections immediately publish the advertisement for the anticipated Elections Commission Chair vacancy, with the term beginning July 1, 2026, and for the Commission to begin accepting applications and conduct the selection process over the next several meetings. The motion was seconded by Commissioner Andrion. The motion was further amended by Commissioner Papalimu to include an application deadline of April 30, 2026. The amendment was seconded by Commissioner Kamm. The motion **carried** unanimously noting the excused absences of Commissioners Apana and Osterkamp. [12:57 PM]

Commissioner Papalimu stated that Chief Election Officer (CEO) Scott Nago was present and able to act on the designation without delay. Commissioner Cushnie

emphasized the need for an immediate decision to determine next steps and avoid further delay.

Commissioner Papalimu moved that the Elections Commission return to Agenda Item IV (d) so that Scott Nago can address the motion that was just passed regarding designating the Elections Commission as a designated representative. The motion was seconded by Commissioner Cushnie and **failed** noting the excused absences of Commissioners Apana and Osterkamp. [1:34 PM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Dalton, Sabas, Curtis

VI. Formal complaints [1:37 PM]

- a) ECC-25-013
- b) ECC-25-014
- c) ECC-25-015
- d) ECC-25-016
- e) ECC-25-017

Public testimony on Agenda Item VI (a):

AnnMarie Hamilton provided testimony alleging deficiencies in election chain of custody, as referenced in reports and discrepancies, indicating potential legal violations and called for accountability and corrective action by the Commission.

Shelby Billionaire provided testimony alleging widespread legal violations and election-related misconduct by the Commission, claiming systemic corruption and warning that legal action would follow if issues are not addressed.

Jennifer Hunt provided testimony suggesting that election discrepancies are part of a broader, intentional pattern across multiple states, citing missing records and shared vendors as potential evidence of coordinated issues.

Keoni Payton provided testimony expressing support for RICO-related legal action and called for those involved in election administration to face federal prosecution.

Jennifer Cabjuan provided testimony sharing concerns about signature verification and chain of custody after her father's ballot was allegedly cast without confirmation, arguing that current processes are inadequate and supporting further investigation into these issues.

Austin Martin provided testimony supporting the complaints and potential RICO action, urging the Commission to seriously investigate issues, uphold accountability, and address concerns openly to restore public trust.

Tara Malia Gregory provided testimony supporting a more efficient, comprehensive approach to move election actions forward, including establishing clear leadership and authority without delay.

Sherilyn Wells provided testimony alleging election interference and misconduct, citing denied records requests and urging the Commission to address election integrity issues before facing serious legal consequences.

Michelle Stefanik provided testimony urging the Commission to send the complaint to the Department of Justice, act immediately without delays, and move forward with authorizing an audit of the elections.

Jamie Detwiler provided testimony supporting forwarding the complaint to the Department of Justice and urging immediate action to conduct an audit, emphasizing it can be done by volunteers without further delay.

Public testimony on Agenda Item VI (b):

Keoni Payton provided testimony stating that the Commission is delaying implementation of a ballot audit, alleging lack of transparency and compliance, and urging immediate action to conduct the audit and involve the Chief Election Officer.

Public testimony on Agenda Item VI (c) and (d):

Shelby Billionaire provided testimony claiming he filed complaints with the Department of Justice alleging corruption and legal violations and demanded the Commission to take those allegations seriously.

Jennifer Hunt provided testimony arguing that verified discrepancies in ballot envelope counts require an immediate audit, accusing officials of delaying action, and urging others to file complaints with the Department of Justice.

Tamara McKay provided testimony arguing that laws are being misinterpreted to delay ballot review, urging immediate access to election records for transparency and warning of potential legal consequences.

Jaerick Medeiros provided testimony supporting the complaints, criticizing a Commissioner's conduct, and expressing frustration that actions and behavior are hindering progress and transparency.

Victoria Thompson provided testimony asserting that ballot counting should have already been completed, emphasizing the Commission's authority to act and calling for accountability and immediate action.

Sherilyn Wells provided testimony arguing that federal law allows ballot examination during the 22-month retention period, accusing officials of using it as a delay tactic and urging immediate action or federal intervention.

Michelle Stefanik provided testimony arguing that the restriction on examining ballots is based only on the Deputy Attorney General's opinion, not official guidance, and urged immediate action to conduct an audit so elections can be properly challenged and verified.

Jamie Detwiler provided testimony supporting the complaints, alleging collusion in election processes, and clarifying that past audits were delayed but still feasible, emphasizing the need to follow the law and proceed with action.

Austin Martin provided testimony alleging a conflict of interest involving the Deputy Attorney General and the Chair and criticized the Commission for lacking transparency and accountability in handling complaints.

Keoni Payton provided testimony making personal attacks against a Commissioner.

Tara Malia Gregory provided testimony supporting the complaints, arguing that election laws on audits, transparency, and record access are not being followed, and urging the Commission to ensure compliance and establish clear leadership moving forward.

Bruce Yoakum provided testimony expressing frustration with the Commission, accusing some members of stonewalling and demanding transparency to uncover the truth behind election issues.

Jennifer Cabjuan provided testimony arguing that the Commission has authority over the Chief Election Officer and should enforce its prior vote to conduct the audit without further delay.

Public testimony on Agenda Item VI (e):

Peter Bernegger provided testimony alleging the state is not compliant with federal HAVA requirements, accusing the Chief Election Officer of falsely certifying compliance, and urging the Commission to enforce implementation of a lawful state plan.

Michelle Stefanik provided testimony supporting the complaint and urging the Commission to formally act on it by requiring documentation of HAVA compliance rather than dismissing it without a remedy.

Tammy Ash Perkins provided testimony emphasizing that election officials must follow federal law on record retention and transparency and urging the Commission to ensure compliance and accountability to restore public trust.

Shelby Billionaire provided testimony supporting prior complaints, stating they had already filed reports with authorities, and urging the Commission to act on alleged legal violations and conduct an independent audit.

Sherilyn Wells provided testimony asserting that the Commission is responsible for overseeing the Chief Election Officer, alleging criminal violations, and urging immediate action, including holding him accountable and removing him from his position.

Jennifer Hunt provided testimony supporting Peter Bernegger's complaint, thanking him for bringing attention to the issue and warning the Commission of potential legal consequences.

Tamara McKay provided testimony emphasizing that attorneys on the Commission must uphold ethical standards, arguing that misinterpretation of the law to hinder transparency or oversight could constitute professional misconduct.

Jennifer Cabjuan provided testimony supporting the complaint, warning that failure to address alleged noncompliance with federal funding requirements could expose the Commission to liability and urging them to hold the Chief Election Officer accountable.

Victoria Thompson provided testimony emphasizing proper ballot handling procedures, criticizing the Chief Election Officer's performance, and urging the Commission to use its authority to act quickly and ensure accountability.

Tara Malia Gregory provided testimony supporting the complaint, alleging conflicts with federal election laws and urging the Commission to take action and distance itself from the Chief Election Officer and Attorney General's office.

Susan Strom provided testimony expressing frustration with perceived delays and resistance by the Commission, alleging lack of transparency and urging immediate action and accountability.

Austin Martin provided testimony arguing that concerns about election integrity go beyond partisan politics, alleging lack of accountability and urging the Commission to recognize the broader impact on public trust and democratic participation.

The Commission discussed attorney-client privilege regarding redacted information. Commissioner Cushnie questioned if it applied to communications between the Chair, Deputy Attorney General, and Office of Elections support staff, and moved to assert the privilege by Commission vote. DAG Ching and Chair Curtis stated that the privilege could not be revoked involuntarily and referenced prior guidance on the matter.

Commissioner Cushnie moved to assert attorney client privilege on the redacted emails from ECC-25-013. The motion was seconded by Commissioner Andrion and **failed** noting the excused absences of Commissioners Apana and Osterkamp. [2:13 PM]

NO: Andrion, Cushnie, Kamm, Papalimu

ABSTAIN: Dalton, Sabas, Curtis

Commissioner Dalton called for the question, and it **failed** noting the excused absences of Commissioners Apana and Osterkamp. [2:17 PM]

YES: Dalton, Kamm, Curtis

Commissioner Cushnie stated that the complaint presented evidence of potential issues in election administration and expressed concern about possible conflicts involving the Attorney General's office. He indicated that an independent review was necessary and moved to refer the matter to the Department of Justice for further investigation.

Commissioner Cushnie moved to refer complaint ECC-25-013 to the Department of Justice. The motion was seconded by Commissioner Andrion and **failed** noting the excused absences of Commissioners Apana and Osterkamp. [2:23 PM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Dalton, Curtis

ABSTAIN: Sabas

Commissioner Cushnie cited a discrepancy between County and State records and stated that counting envelopes would help verify alignment without opening ballots. Commissioner Kamm clarified that all envelope sources would be included.

Commissioner Dalton raised concerns about the methodology and potential legal risk based on prior guidance regarding the 22-month retention period. Commissioner Andrion stated that the retention period allows for audits.

Commissioner Osterkamp opposed the proposal, stating the discrepancy is based on a misunderstanding of USPS data and warning it could undermine public confidence. Commissioner Kamm questioned whether USPS records could provide verification, while Commissioner Cushnie emphasized reliance on County records.

Commissioner Cushnie moved to request that Scott Nago and a team of observers conduct a hand count of the Hawaii 2024 Election ballot return envelopes to determine the total number of envelopes received. The ballot envelopes are to be sorted into two groups: (1) envelopes returned through the mail and (2) envelopes returned through drop boxes. The removal from storage, unsealing, and counting of envelopes shall be done in the presence of official observers and any Commissioners who would like to attend. The motion was seconded by Commissioner Andrion and **carried** noting the excused absence of Commissioner Apana. [2:50 PM]

YES: Andrion, Cushnie, Kamm, Papalimu, Curtis

NO: Dalton, Osterkamp, Sabas

Commissioner Cushnie moved to have the audit that was approved in the previous motion, conducted before the next meeting. The motion was seconded by Commissioner Papalimu and **failed** noting the excused absence of Commissioner Apana. [3:04 PM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Dalton, Osterkamp, Sabas, Curtis

Commissioner Cushnie questioned whether the Deputy Attorney General's Office could avoid a conflict of interest while advising the Commission and representing the Chief Election Officer.

The Chair clarified that the motion on the floor was to seek a written opinion from the Attorney General.

Commissioner Andrion indicated support for the motion, and Commissioner Papalimu expressed support for obtaining a formal opinion directly from the Attorney General.

Commissioner Cushnie moved to request a written opinion from Attorney General Anne Lopez regarding the 22-month rule and whether the Elections Commission, Scott Nago, or anyone can inspect the records within the 22-month period. The motion was seconded by Commissioner Andrion and **carried** noting the excused absence of Commissioner Apana. [3:40 PM]

YES: Andrion, Cushnie, Kamm, Papalimu, Sabas

NO: Dalton, Osterkamp, Curtis

Commissioner Cushnie expressed opposition to deferring discussion on the HAVA plan and indicated a preference to address the substance of the issue, while Chair Curtis clarified that the motion on the floor was to defer discussion pending the court case.

Commissioner Dalton moved to defer discussion of Mr. Bernegger's complaint ECC-25-017, as Deputy Attorney General Ching has recommended. The motion was seconded by Commissioner Osterkamp and **failed** noting the excused absence of Commissioner Apana. [4:15 PM]

YES: Dalton, Osterkamp, Sabas, Curtis

NO: Andrion, Cushnie, Kamm, Papalimu

Commissioner Dalton called for the question, and it **failed** noting the excused absence of Commissioner Apana. [4:17 PM]

YES: Dalton, Osterkamp, Sabas, Curtis

NO: Andrion, Cushnie, Kamm, Papalimu

Commissioner Cushnie stated that prior HAVA complaints had been dismissed and asserted that the state lacks a compliant grievance procedure as required under federal law.

Commissioner Sabas noted that the Chief Election Officer had recently issued a written response to related complaints and questioned the need for further action. Commissioner Cushnie responded that the complaints were dismissed without addressing their merits.

Discussion continued regarding whether the state's HAVA plan reflects noncompliance. Commissioners questioned whether this had been established, while others referenced language in the existing plan.

Commissioner Cushnie moved that the Elections Commission direct the Chief Election Officer to prepare and amend a HAVA state plan that fully complies with all current HAVA requirements within 60 days. The motion was seconded by Commissioner Papalimu and **carried** noting the excused absence of Commissioner Apana. [4:21 PM]

YES: Andrion, Cushnie, Kamm, Papalimu, Curtis

NO: Osterkamp

ABSTAIN: Dalton, Sabas

Commissioner Cushnie stated for the record his view that the state does not have a compliant HAVA plan, referencing prior discussion on the matter. He further expressed concern regarding CEO Nago's performance in relation to this issue.

Commissioner Cushnie moved that the Commission document in the official record that the Chief Election Officer does not have a compliant HAVA plan and note that the absence of a compliant HAVA plan may place Hawaii at risk of losing federal election funding. The motion was seconded by Commissioner Andrion and **failed** noting the excused absence of Commissioner Apana. [4:31 PM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Dalton, Osterkamp, Curtis

ABSTAIN: Sabas

Commissioner Papalimu expressed support for a proposal related to remote meeting procedures, stating her interpretation that public access provisions could allow individuals to join Commissioners at their physical location during remote meetings.

DAG Ching clarified that the Sunshine Law does not permit members of the public to enter private residences for this purpose. Chair Curtis added that Commissioners are generally required to participate individually during remote meetings. DAG Ching further noted that public access requirements apply to designated public meeting locations, not private residences.

Commissioner Dalton moved to return Elections Commission meetings to in-person with a remote hybrid option. The motion was seconded by Commissioner Cushnie and **carried** noting the excused absence of Commissioner Apana. [4:33 PM]

YES: Andrion, Cushnie, Dalton, Kamm, Papalimu, Sabas, Curtis

NO: Osterkamp

Commissioner Cushnie requested a written response from the Chief Election Officer regarding whether ballots may be accessed to resolve discrepancies, citing the need for a clear record.

Commissioner Osterkamp cautioned against acting without full legal understanding, noting potential statutory requirements and risks, and questioned whether the Chief Election Officer should provide legal interpretations.

Commissioner Cushnie moved to request a written opinion from Scott Nago regarding the 22-month holding period for access to the ballots and envelopes. The motion was seconded by Commissioner Kamm and **failed** noting the excused absence of Commissioner Apana. [4:37 PM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Dalton, Osterkamp, Curtis

ABSTAIN: Sabas

VII. Adjournment [4:43 PM]

Chair Curtis adjourned the meeting at 4:43 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Noel".

Nicole Noel
Elections Commission Secretary

DRAFT