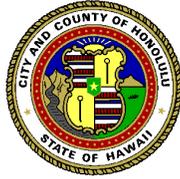


**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL
MAYOR



JAN K. YAMANE
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

Date and Place: December 19, 2018
Kapālama Hale
1st Floor Conference Room
925 Dillingham Boulevard
Honolulu, Hawai'i 96817

Present: Hon. Victoria Marks (ret.), Chair
Michael Lilly, Esq., Vice Chair

Peter S. Adler, Commissioner
Hon. Riki Amano (ret.), Commissioner
Lynette Lo Kanda, Commissioner
David B. Monk, Commissioner
Hon. Allene Suemori (ret.), Commissioner

Jan K. Yamane, Executive Director and Legal Counsel (EDLC)
Laurie Wong-Nowinski, Associate Legal Counsel (ALC)
Kristine Bigornia (TA), Legal Clerk III (LCIII)
Joseph Benedict C. Pagkalinawan, Senior Clerk (Sr. Clerk)

Moana Yost, Deputy Corporation Counsel,
Department of the Corporation Counsel (COR)

MINUTES OF THE ETHICS COMMISSION MEETING

I. Call to Order, Public Notice, Quorum

Chair Marks called the meeting to order at 11:43 a.m., stating all Commissioners were present.

II. New Business

A. Chair's Report

2. For Action: Approval of Open Session Minutes of November 14, 2018

Commissioner Amano made and Vice Chair Lilly seconded a motion to approve the open session minutes of November 14, 2018. The motion carried unanimously.

3. For Action: Approval of Executive Session Minutes of November 14, 2018
The Commission may convene an executive session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes (HRS), to consult with the Commission's attorneys regarding questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

Commissioner Kanda made and Commissioner Monk seconded a motion to approve the executive session minutes of November 14, 2018. The motion carried unanimously.

4. For Action: Nomination and Vote for Chair and Vice Chair, Calendar Year 2019

Chair Marks entertained nominations for Chair and Vice Chair for 2019.

Commissioner Suemori nominated and Commissioner Amano seconded Victoria Marks as Chair and Michael Lilly as Vice Chair for the calendar year 2019.

The motion carried with six members voting Aye; Chair Marks voted Nay for herself for Chair.

B. Executive Director and Legal Counsel's Report

1. Staff Work Reports Summary

The EDLC reported that Sr. Clerk Pagkalinawan continued work on lobbyist filings, including drafting Frequently Asked Questions (FAQs), finalizing documents, and uploading to the website. The EDLC stated that for the first time, staff sent the lobbyist courtesy memorandum by email rather than US postal service. Staff saved on postage and only had a handful of returns.

The EDLC reported that LC III Bigornia continued work on financial disclosures. She refreshed board and commission member forms and instructions and uploaded them to the website. City officers and employees have already begun to submit their disclosures via EForms.

Commissioner Amano asked if everyone on the Ethics Commission submitted their financial disclosure forms. The EDLC replied not yet, but Commissioners have until January 31, 2019, to file.

The EDLC stated that staff is receiving a steady flow of board and commission

member's forms.

The EDLC reported that Investigator Yonamine managed her caseload, continued work with the ALC on creating templates, and assisted with the Commission's holiday Ethics Elf on the shelf outreach via Twitter.

The EDLC reported that the ALC's workload this month has been much heavier in Education and Outreach. The ALC drafted the December 2018 newsletter and worked on the holiday Ethics Elf Twitter content and new biennium curriculum, in addition to her other responsibilities.

2. Statistics
 - a. Website Sessions, November (343) 2018
 - b. Financial Disclosure Filings – Update
 - c. Lobbyist Registrations, Annual Reports – Update

The EDLC announced that staff will report on financial disclosure and lobbyist filings at the February 20, 2019 meeting.

3. Budget
 - a. FY2019 Operating Budget – None
 - b. FY2020 Operating Budget Request – Update

The EDLC stated that the meeting with the Managing Director and Director of Budget and Fiscal Services has been rescheduled to Thursday, December 27, 2018.

4. Education and Outreach
 - a. Ethics Training Program (FY19–FY20) – Update
 - i. *How Humor Can Help Your Ethics & Compliance Program*, Compliance Week

The EDLC stated that she reviews articles from a variety of ethics and compliance organizations regarding outreach and training. Many articles describe how humor can help your ethics and compliance program. Before the meeting, the EDLC shared an article from *Compliance Week* that discussed the difficulty in approaching certain discussions and topics and how humor can open the door. Vice Chair Lilly had requested to include this on the agenda for discussion.

Vice Chair Lilly shared his thoughts on the *Civil Beat* (“CB”) article published on December 6, 2018, that put down humor in our training. He stated that advertisers use humor because it is effective and audiences remember. For example: “Where’s the beef?” and “I can’t believe I ate the whole thing.” Humor helps people remember and enjoy the product. He admits that ethics can be pretty dull and we want people to enjoy ethics training and spread the message to other people in a positive way.

Commissioner Amano supports the idea of putting training out there in a memorable, more human way—that is what the Commission should do.

Chair Marks recalled that Commissioner Adler and the EDLC met with *Civil Beat* reporters a while ago. More recently, the EDLC met with *CB* Reporter Natanya Friedheim twice and Chair Marks met with her twice. Chair Marks speculated that she contacted other people for their opinions, including prior staff.

Vice Chair Lilly wanted to discuss whether there were any objections to meeting every other month. Vice Chair Lilly explained that the Commission is freeing up staff time for complaints, outreach, training, and assisting the community. He stated if the Commission needs to discuss matters, then a meeting will be scheduled.

Commissioner Kanda suggested that the Commission draft a view-point explaining that the Commission is relieving staff of meeting responsibilities. The Commission agreed with the suggestion and Commissioner Kanda offered to draft a letter, which should come from Chair Marks and Vice Chair Lilly.

At 11:55 a.m., Commissioner Amano made a motion to draft the letter. She also asked if the letter can be sent to *CB* and *The Star-Advertiser*.

The EDLC stated that January has two deadlines—one for lobbyists and one for financial disclosures—so many documents are being processed by the office. Not having a January meeting frees up staff to process filings timely.

Commissioner Amano added that the Permitted Interaction Group (PIG) on strategic planning will meet in January 2019.

Vice Chair Lilly seconded the motion to draft the letter.

Commissioner Monk stated the Commission should make two points: 1) the meetings are not the principle work of the Commission and that its meeting every other month does not reduce the work being done by the Commission, and 2) somebody in the comments mentioned about public access to the Commission. The letter needs to include that the Commission has an open invitation to the public to attend any of its meetings.

The EDLC stated that Common Cause raised a concern about fewer meetings resulting in less access to the Commission. The EDLC confirmed that public notices are filed and posted and that the public is invited, but few, if any, members of the public attend Ethics Commission meetings. She noted that one member of the public attended last month's meeting and no members of the public attended today's meeting.

Chair Marks agreed that the Commission does a lot of outreach, including training about 10,000 City employees, tweeting, sending newsletters, and the like.

Commissioner Amano stated that the Commission needs to marshal its resources and become more efficient and effective and productive.

The motion to draft the letter carried unanimously.

b. Twitter – Holiday Outreach – Update

The ALC explained that Twitter has features to post pictures and add links with a limited character message.

The ALC stated that staff does not get out of the office often except for investigations. For the holiday season, staff decided to do some outreach with Elfy, the Ethics Elf on the Shelf. Staff spent three full days visiting agencies and departments (both legislative and executive branches) in Kapālama Hale, Honolulu Hale, Fasi Municipal Building, Alapai Transit Center, and the Honolulu Police headquarters to take pictures with Elfy. The ALC stated staff was unable to visit Kapolei Hale.

The ALC tweeted daily with shout outs to various agencies and departments for upholding the Standards of Conduct. Tweets included pictures of agency staff with Elfy.

The ALC explained that participating employees chose ribbons with slogans for their picture with Elfy. For example, Jim Williston, Director of Council Services, chose “Old Timer.” Duane Pang, Deputy Corporation Counsel, chose “Legal Eagle.” A Driver’s License (DL) clerk, who checks if visitors have the appropriate documents, chose “Problem Solver.” A Department of Community Services (DCS) employee chose “No Means No.”

She continued that Twitter also gave Commission staff an opportunity to thank City employees who helped us throughout the year. One tweet was a shout out to the Commission’s online ethics training development partners, the Departments of Human Resources (DHR) and Information of Technology (DIT). Other tweets highlighted Richard Do, DIT, who developed the ethics training application, and City administrative services officers who help employees make ethical choices.

The ALC also tweeted updates regarding a new ethics training course coming in July 2019. Another tweet featured hashtag #AlohaFridayHawaiiNei, with Elfy using multi-model City transportation.

Commissioner Suemori asked if staff plans to do this throughout the year. The ALC replied that it is in discussion.

The ALC continued that after each tweet, Investigator Yonamine sent an email with a Twitter link to the employees in the photos to notify them that their picture has been posted.

Investigator Yonamine explained that she includes a screenshot of the tweet and a

“follow us” button to encourage people to follow us live. She received responses filled with positive feedback and hope that Elfy will visit again next year.

The ALC stated that in the three days, she has seen more City employees than over the last couple of years.

Commissioner Kanda stated that a Facebook account could link to all social media accounts at once.

The EDLC stated that the Commission has expressed reticence about Facebook, and at present only uses Twitter.

Commissioner Amano suggested that for the non-Twitter, non-social media community, the Commission’s newsletter would be a good place to push out content and provide a link to Twitter.

The ALC stated that at the SCCE Conference in Las Vegas, NV, she learned that organizations need to make an ethical cultural change. She hoped that the Commission’s holiday tweets with Elfy would help to bring about such change.

Commissioner Adler asked whether we have comments from City employees expressing what they are interested in. Commissioner Amano commented now is a good time to ask because the culture is changing.

The ALC stated that the Commission has 120 Twitter followers. Common Cause Hawai`i, which has thousands of followers, commented that “more people need to start paying attention to what the Honolulu Ethics Commission is doing with this” and created hashtags: #ethicsdiva #ethicisfinallyentertaining. Other Ethics Commission around the country are following and retweeting the Honolulu Ethics Commission.

The EDLC stated that it was an unexpectedly successful outreach.

Commissioner Amano applauded staff’s efforts and asked if there is any chance to get out to Kapolei before Christmas. Commissioner Amano stated that including Kapolei Hale would make the City and County of Honolulu whole—it will be worth it because nobody will feel left out. The ALC committed to go to Kapolei Hale.

Vice Chair Lilly added that one of the comments said, “Your social media manager is awesome, need more of this from City and County of Honolulu.”

The EDLC shared that Elfy was accomplished with no production team, no budget, and low tech props.

The Commission applauded the staff for their work.

- c. Newsletter – *The Compass: Navigating Ethics for the City and County of Honolulu* (December 2018)

The ALC stated that the newsletter included a photo album of the City and County of Honolulu workers' pictures with Elfy.

The ALC wrapped up the holiday outreach and announced that Elfy will come out again next Christmas.

Chair Marks added that, in the future, staff could pass out gift flyers when meeting City employees.

- d. Gift Quick Reference Guide
- e. Media Interaction

5. Legislation

- a. Financial Disclosures – Clarify Reporting Year

The EDLC stated that staff has discussed legislation strategy. Rather than submitting omnibus bills, which have a low passage rate, staff suggests starting with smaller bills to fix specific problems.

The EDLC stated that, for example, financial disclosure legislation should fix the reporting year. Currently, if an employee is leaving office in November of 2018, the law requires the employee to report 2017. The law refers to the "preceding calendar year." The EDLC stated that the disclosure requirement should focus on the year leading up to the date the filer leaves office. She continued that a bill to clarify the reporting years would be very discreet, resulting in a higher likelihood of passage.

- b. Lobbyists – Delete Notary Requirement

The EDLC stated the biggest issue with the lobbyist forms is the notary requirement. She explained that accessing a notary has become more difficult over time. This would be in a discreet bill that would address only one issue.

Commission Adler asked about lobbyist reporting periods. The EDLC stated that the City requires one annual report.

Commissioner Kanda asked about the status of the collaboration with the Hawaii State Ethics Commission. The EDLC explained that she has draft language that would allow lobbyists who file with the state to be considered as filed with the City. She talked with Daniel M. Gluck, Executive Director, State Ethics Commission and he would be open to working with us. The EDLC continued that the City's amended forms look very similar to the State's forms, which would facilitate cross-filing. She further explained that lobbyists would still need to clarify the areas of lobbying with the City because these differ from the State.

IV. Strategic Planning

A. Standards of Conduct – Translation – Update

The EDLC stated that at the last meeting, she was asked to follow up on translating the Standards of Conduct.

The EDLC explained that there are two separate laws: Title VI (language access to programs and services) and Title VII (employment non-discrimination).

The EDLC shared guidance and tools from the Equal Opportunity Office (EOO), the lead agency for the City. EOO gave us “Hello, my name is ____” cards and “Point to Language” posters to request an interpreter.

The EDLC stated that City agencies that may use interpretation services contract for such services on an as-needed basis. These agencies stated they hardly use translation services and that Google Translate and other such programs would be deemed not sufficient for the purposes of City communication.

The EDLC continued that the City has not deemed translation necessary for its employees because they are able to speak and understand English at a level comparable with applicable job duties. The City’s position is that it does not need to translate because its employees can handle English.

Commissioner Kanda thanked the EDLC for looking into it. She stated that if the City does not deem it necessary, then we do not have to translate documents.

The EDLC informed the Commission that each city department is required to develop a language service access plan. The Ethics Commission is administratively attached to the Department of the Corporation Counsel (COR) and would rely on COR’s plan.

Staff shared the COR/Ethics Commission Christmas greeting card with the department’s troll-themed Christmas tree and Elfy, the Ethics Elf. The EDLC thanked Erin Tamashiro, COR, for incorporating Elfy in the greeting card.

At 12:41 p.m., Chair Marks moved that the Commission amend the agenda to add an item in executive session, so that she could update the Commission on litigation:

III. Executive Session (The following agenda item will be reviewed in executive session pursuant to Section 92-5(a)(8), HRS: to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law, or a court order.

A. For Discussion: Kealoha vs. Totto, Civil No. 16-1-1166 GWBC in the Circuit Court

of the First Circuit, State of Hawai'i, and Civil No. 1:16-CV-16-0068 JMS-KSC in the United States District Court for the District of Hawai'i

Vice Chair Lilly moved and Commissioner Monk seconded a motion to amend the agenda to add executive session item III.A. The motion carried unanimously.

At 12:42 p.m., Chair Marks moved and Commissioner Monk seconded a motion to move into executive session. The motion carried unanimously.

At 12:55 p.m., Commissioner Suemori moved and Commissioner Monk seconded a motion to move out of executive session and return to open session. The motion carried unanimously.

Chair Marks reported that she updated the Commission on litigation matters.

V. Adjournment – Next Meeting: February 20, 2019

At 1:05 p.m., Commissioner Suemori made and Commissioner Monk seconded a motion to adjourn the Ethics Commission meeting. The motion carried unanimously.