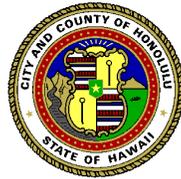


**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**

925 DILLINGHAM BOULEVARD, SUITE 190 • HONOLULU, HAWAII 96817  
PHONE: (808) 768-9242 • FAX: (808) 768-7768 • EMAIL: [ethics@honolulu.gov](mailto:ethics@honolulu.gov) • INTERNET: [www.honolulu.gov/ethics](http://www.honolulu.gov/ethics)

KIRK CALDWELL  
MAYOR



JAN K. YAMANE  
EXECUTIVE DIRECTOR  
AND LEGAL COUNSEL

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**

Date and Place: July 18, 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  
David B. Monk, Commissioner  
Hon. Allene Suemori (ret.), Commissioner

Jan K. Yamane, Executive Director and Legal Counsel  
Laurie Wong-Nowinski, Associate Legal Counsel  
Janice Yonamine, Investigator  
Kristine Bigornia (TA), Legal Clerk III  
Joseph Pagkalinawan, Sr. Clerk  
Moana Yost, Deputy Corporation Counsel,  
Department of the Corporation Counsel (COR)

Absent: Lynette Lo Kanda, Commissioner

**MINUTES OF THE ETHICS COMMISSION MEETING**

I. Call to Order, Public Notice, Quorum

Chair Marks called the meeting to order at 11:37 a.m., stating that all Commissioners were present except Commissioner Kanda.

## II. New Business

### A. Chair's Report

#### 1. Announcements, Introductions, Correspondence, and Additional Distribution

Chair Marks reported that William "Bill" Shanafelt, former investigator with the agency, died due to a runaway truck in front of his home. Commissioner Amano suggested sending a card to his family to offer our condolences, and the Commission agreed.

#### 2. For Action: Approval of Open Session Minutes of June 20, 2018

**Commissioner Suemori made and Vice Chair Lilly seconded a motion to approve the open session minutes of June 20, 2018. The motion carried unanimously.**

#### 3. For Action: Approval of Executive Session Minutes of June 20, 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 Suemori made and Commissioner Amano seconded a motion to approve the executive session minutes of June 20, 2018. The motion carried unanimously.**

### B. Executive Director and Legal Counsel's Report

#### 1. Staff Work Reports Summary

The Executive Director and Legal Counsel (EDLC) announced the return of Joseph Pagkalinawan reprising his position as Senior Clerk (Sr. Clerk) on an 89-day contract, which ends on October 12, 2018. Sr. Clerk Pagkalinawan will be assisting Legal Clerk III (LC III) Bigornia. Staff welcomed him back on Monday, July 16, 2018.

Chair Marks thanked Sr. Clerk Pagkalinawan for returning to the office.

LC III Bigornia continues to assist city employees with completion of the biennium ethics training. The biennium concluded on June 30, 2018; since then, the number of phone calls requesting assistance with training has declined. She is now able to refocus on her regular work.

Investigator Yonamine will cease work on the meeting minutes; as such, she will have more time to work on investigations. LC III Bigornia will be drafting meeting minutes instead.

Associate Legal Counsel (ALC) Wong-Nowinski is working on a variety of things

from drafting legislation to creating the next biennium training program. ALC Wong-Nowinski will discuss her training session with the newly promoted Fire Captains during the Education and Outreach portion of the meeting.

2. Statistics
  - a. Website Sessions, June 2018 – 420
3. Budget
  - a. FY2019 Operating Budget – Update

The EDLC announced the FY2019 Operating Budget passed as Ordinance 18-23. The EDLC stated that there were a lot of positive results from this budget cycle. The City Council approved the EC's funding requests for salary increases, travel to attend a training conference for one person, a new laptop, and consulting monies. The EDLC informed the Commission that Staff is looking for "specs" and software right now for the laptop which replaces the former LCIII's personal lap top that was used during the meetings.

The EDLC explained that staff is working with a representative from the Department of Information Technology (DIT) as they normally purchase computers from Dell and have a preference for certain units for durability. The EDLC further explained that staff does not receive funding for such a request very often so we need to purchase the most current model to extend the shelf-life of the laptop.

Commissioner Monk arrived at 11:43 a.m.

- b. FY2020 Operating Budget Request – Update

The EDLC stated that the FY2020 Operating Budget request cycle is already beginning. The EDLC noted that she is requesting a meeting with the Director of the Department of Budget and Fiscal Services (BFS) and his budgetary division chief to discuss the Commission's FY2020 budget request. The meeting will include Chair Marks, Vice Chair Lilly, Commissioner Adler, and the EDLC to discuss the Commission's request.

4. Education and Outreach
  - a. Ethics Training Program – Update

The EDLC requested that the ALC and LC III provide feedback on the ethics training program.

LC III Bigornia informed the Commission that she received many calls for assistance from Honolulu Fire Department (HFD) and Honolulu Police Department (HPD) employees during the last two weeks of the training biennium. LC III Bigornia also informed the Commission that last month, staff issued a memo to all departments and agencies to submit a Certificate of Completion certifying that all employees within their department or agency have completed ethics training. LC III Bigornia reported that more than half of the departments and

agencies submitted their certifications and that a memo will be sent to the Managing Director to update him on the status of ethics training in the City.

LC III Bigornia reminded the Commission that we are currently in the new ethics training biennium, July 1, 2018 to June 30, 2020.

LC III Bigornia stated that staff will be developing a new course for Board and Commission members. Overall, LC III Bigornia commented the online ethics training was successful. However, since it was the first time that staff deployed online ethics training, staff anticipated certain adjustments may be needed such as informing trainees to use a specific web browser (Google Chrome) that is compatible with the training program.

The EDLC mentioned that staff will now include the training assistance phone calls in our log due to the high volume of calls. The EDLC stated that the data is important because it reflects work that has shifted because of the new process. The EDLC compared the transition to when the Commission's financial disclosure statement switched from paper to EForm. During its first year, many City officers and employees called for assistance. Thereafter, the number of calls greatly declined because of familiarity with the EForm.

The ALC shared that on Monday, July 16, 2018 she, LC III Bigornia, and Sr. Clerk Pagkalinawan went to HFD's training facility. The ALC was invited to conduct an hour of ethics training for their 40 newly promoted HFD Captains. HFD requested that each presenter include an activity in their training as the new Captains must spend an entire week training on various topics and interaction makes training more memorable. The ALC stated that after training on substance and issue spotting for 30 minutes, she then conducted Ethics Jeopardy as the activity. The ALC explained that she split the class into three teams and used noise makers for buzzers.

The ALC stated that she reviewed material from Society of Corporate Compliance and Ethics (SCCE), and learned that the trend is to train existing employees on how to use ethics resources as a refresher as opposed to training entirely on the substance of the ethics laws. The ALC directed all the Captains to take out their smartphones acquaint themselves with our website so they could use it for Ethics Jeopardy. She also drafted an abridged version of the Ethics Commission Plain Language Guide for the Captains to use as reference during the game. The Captains were excited and competitive with their noise makers. The ALC concluded it was well received.

Commissioner Adler asked if staff knew the number of complaints from each Department and Agency, and if the number of complaints has increased. The ALC responded that we do have those numbers.

Commissioner Amano asked how long it took to prepare the Ethics Jeopardy. The ALC replied that it took about a day to create the Ethics Jeopardy. Commissioner Amano asked for game details. The ALC responded that there were six categories with answers worth \$100 to \$500 and that she also had a Final Jeopardy question, but no Daily Double questions.

The Commission praised the ALC for the HFD training materials, especially the Jeopardy activity.

Commissioner Amano asked the ALC if she used a powerpoint, the ALC confirmed. The ALC researched and obtained a template with sound effects, including cheering, booing, and applause.

The ALC stated that she received positive feedback from the Captains; one was quoted saying, "I wish all trainings could be like this."

The EDLC stated that only one of the Captains has a flip phone, while everyone else has a smartphone. The EDLC stated that the trend is mobile training on smartphones. The EDLC continued stating that desktop training will soon to be a thing of the past as everyone will be on a mobile device or laptop.

Commissioner Amano asked if the ALC had prizes. The ALC stated the winning team received a bag miniature candy to help them get through the rest of the training day; everyone received an ethics notepad for playing the game.

The Commission continued to praise the ALC for her training.

The EDLC announced that HPD has reached out to our agency to conduct training for their newly promoted Captains in August and that she had encouraged the ALC to play Ethics Jeopardy again.

Commissioner Amano stated that the Commission made training a priority, and this should make it more memorable. Commissioner Amano complimented the ALC that it was well done.

The EDLC stated that staff is also considering creating another game—Wheel of Fortune Ethics. The ALC has a wheel, and staff will figure out the topics and scenarios.

Chair Marks commented on the creativity of the training. Commissioner Amano said it was really good.

Commissioner Suemori suggested doing a Jeopardy challenge among all the Departments. The EDLC stated that perhaps we will use Ethics Jeopardy during Cabinet training.

The EDLC stated that staff is open to other fun ideas and invited suggestions from the Commissioners. Commissioner Amano suggested Trivial Pursuit. The EDLC considered Candyland.

Commissioner Amano appreciated that it was done in half an hour since the

ALC had a format to follow. Commissioner Suemori liked the team approach. The Commission agreed.

Commissioner Adler requested that staff provide the Commission with a short briefing on which Departments and Agencies have high numbers of inquiries or complaints.

The EDLC stated that Staff reported the numbers last year, and did not have a chance to report it this year because of an unfilled staff position.

Commissioner Adler suggested that staff target training to these departments and agencies as schedules permit.

The EDLC referenced her meeting materials which showed the most recent number of city officers and employees who completed ethics training. She explained that the number of City officers and employees who completed ethics training will increase as some Departments and Agencies still need to submit and scan their score sheets. The Departments and Agencies can sign their certificate of completion pending the scanning of employee score sheets. The EDLC concluded that she will use the final number in the Commission's annual report.

The EDLC asked the ALC to discuss the Commission's outreach efforts on social media. The ALC announced that the Commission's Twitter followers increased to almost 70, which is double the amount from last month. The ALC announced that during the HFD training, she requested that the Captains to take out their cellphones, download the Twitter app, and follow us. She informed the Captains that most times, an Ethics violation occurs unintentionally because employees are busy and not specifically thinking of the standards of conduct. The Commission can remind people that we are here through Twitter on almost a daily basis instead of waiting for a semi-annual newsletter or the next biennial ethics training. The ALC explained that the Commission tweets varied content spanning positive and negative ethics issues and events in the public and private sector and across all disciplines including sports, politics, and even ethics learned from Mr. Roger's Neighborhood documentary.

The ALC continued stating that each Captain was given an index card and asked to draw a thick black line in the middle of the card representing the Ethical Line. At the top of the card, she asked them to write in someone or something that is important, so that they remember not to cross the ethical line. She instructed them to post it somewhere they can see it every day, like on their computer.

Commissioner Suemori commented that the ALC is getting into this. Commissioner Amano commented that those are really good teaching tools.

The EDLC stated that after the discussion on social media during the last meeting, Investigator Yonamine wanted to share some research.

Investigator Yonamine explained to the Commission that she attended a Social Media Training a few years ago when she was with the State Department of Commerce

and Consumer Affairs (DCCA). She stated that the class watched a short two-minute video, about the revolution of social media. She further stated that the creator of this social media research updates the topic almost yearly since statistics change. Investigator Yonamine stated that there is a common misconception that only young people or millennials use Twitter and social media, but the video provides insightful information about social media usage.

The Commission watched the two-minute video called “Social Media Revolution–Did You Know” by Erik Qualman on YouTube.

The EDLC stated that staff uses Twitter as a way to reach everyone more frequently. Staff can control the content of the tweets; the goal is to tweet regularly and stay in the minds of our followers.

Commissioner Amano asked if staff can see the identity of the 70 followers. The ALC confirmed that she can identify followers. She explained how she used Twitter to congratulate the newly promoted HFD Captains and mention Ethics Jeopardy training. She plans to tweet about HPD captain ethics training after it is completed.

Chair Marks asked the Commission if there are any questions. The EDLC hopes that our efforts will encourage the Commission to follow our Twitter feed.

7. Education Opportunities – Commissioners and Staff
  - a. Will Weinstein Ethics Conversation Series (July – August, 2018)
    - i. July 17, 2018 – Ethics in the Boardroom
    - ii. July 19, 2018 – Fraud and Its Recent Giants
    - iii. July 31, 2018 – Legal Ethics
    - iv. August 2, 2018 – Medical Ethics
    - v. August 7, 2018 – Ethics in Politics

The EDLC stated that Staff has attended some of the Will Weinstein’s Ethics Conversation Series held at the UH Law School. The EDLC and the ALC went to “Ethics of Capitalism” last week. Last night, the EDLC and LCIII Bigornia attended “Ethics in the Boardroom.” The ALC and LCIII Bigornia were asked to share their experience at the sessions. Commissioner Amano commented that attorneys can obtain continuing legal education credits for attending the sessions.

The ALC explained that Will Weinstein moderated a panel discussing ethics and capitalism. The panel included: Bob Harrison, First Hawaiian Bank Chairman and CEO; Jay Shidler, Founder, Shidler Group; Peter Shaindlin, Chief Operating Officer, Halekulani Corporation; and Roger Berkowitz, New York Associate Professor of Politics, Philosophy, and Human Rights. The ALC thought the discussion and references to historical events such as the Great Depression and its impact on ethics in capitalism were insightful.

LCIII Bigornia explained that the session she attended was also at the UH law school. The presenter was Mary Bitterman, a current board member of the Bank of Hawaii and

also President of the Bernard Osher Foundation. LC III Bigornia also thought it was insightful. She noted Ms. Bitterman's reference to the "moral compass" throughout her presentation which reminded LCIII of our newsletters which are entitled "The Compass." Ms. Bigornia stated that the moral compass applies to multiple disciplines in the private and public sector.

LC III Bigornia stated that she learned the importance of the board and executive management communicating well and working as a team so they can send a clear message on ethical expectations from the top to the bottom of the company. If all employees do not understand, then everyone will be lost. One example discussed was the Wells Fargo fake accounts scandal. Employees in the company panicked because they were expected meet certain quotas or potentially lose their jobs.

LC III Bigornia continued by stating that board members should be alert and put effort into preparation and discussions. The Commission and staff should always be on the same page regarding Commission goals, which is further accomplished through strategic planning. LC III Bigornia thought the lecture made her more aware of how everything interconnects with ethics.

b. State Campaign Spending Commission – October 17, 2018 (tentative)

**At 12:21 p.m. Commissioner Suemori made and Commissioner Adler seconded a motion to move into executive session. The motion carried unanimously.**

III. Executive Session (The following agenda items will be reviewed in executive session pursuant to Section 92-5(a)(4), HRS, to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.)

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-16-00682 JMS-KSC in the United States District Court for the District of Hawai'i

C. Executive Director and Legal Counsel – Annual Evaluation

**At 1:34 p.m., Commissioner Suemori made and Commissioner Monk seconded a motion to move out of executive session and return to open session. The motion carried unanimously.**

Chair Marks reported on executive session matters:

Executive Session Item III.A. - The Commission discussed litigation with its counsel.

Executive Session Item III.C. - The Commission reviewed the EDLC's performance evaluation.

#### IV. Strategic Planning

A. For Discussion: Media Policy (dated July 23, 2015) and Crisis Action Protocol – None

Commissioner Amano asked if staff will be drafting a social media policy. The EDLC replied that the City is drafting a social media policy. The administration asked for the EDLC to review the draft policy from an ethical perspective.

During a meeting with the Managing Director (MD), the EDLC asked if the City had a risk management policy. She learned that the City has a general policy in the Administrative Directives Manual and one that the MD keeps with him at all times. This policy describes actions steps to be taken by certain key positions. She stated that the MD informed her that the Department of Emergency Management (DEM) has a plan for more disaster-oriented situations such as hurricane, tsunami, and missile alerts. The EDLC differentiate the natural disaster policy from a policy directing what to do if, for example, something happens to the Mayor.

Chair Marks asked if we have copies of the document. The EDLC received a copy, which will be uploaded in Dropbox for the Commission's review.

#### V. Adjournment

The EDLC referenced the Commissioner's meeting attendance sheet and confirmed that Chair Marks, Vice-Chair Lilly, and Commissioner Kanda will not be attending the September 19, 2018 Commission meeting. The EDLC was concerned about quorum for that meeting. Chair Marks requested that staff carry over this discussion to the August 2018 meeting to confirm attendance and quorum for the September meeting.

**At 1:38 p.m., Vice Chair Lilly moved and Commissioner Adler seconded the motion to adjourn the Ethics Commission meeting. The motion carried unanimously.**