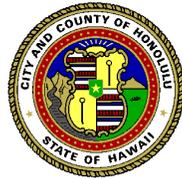


**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**

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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: March 21, 2018  
Kapālama Hale  
1st Floor Conference Room  
925 Dillingham Boulevard  
Honolulu, Hawai'i 96817

Present: Hon. Victoria Marks (ret.), Chair

Hon. Riki Amano (ret.), Commissioner  
David B. Monk, Commissioner  
Lynette Lo Kanda, Commissioner

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

Robert H. Lee, President, Hawaii Fire Fighters Association (HFFA)  
(Agenda Item III.A. only)  
Frank Johnson, HFFA (Agenda Item III.A. only)  
Michael Kaneshiro, HFFA (Agenda Item III.A. only)  
Member of the Public, (Agenda Item III.B. only)

Absent: Michael Lilly, Esq., Vice Chair

Peter S. Adler, Commissioner  
Hon. Allene Suemori (ret.), 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 for Vice Chair Lilly and Commissioners Adler and Suemori. Chair Marks declared quorum.

II. New Business

A. Chair's Report

1. Announcements, Introductions, Correspondence, and Additional Distribution – None
2. For Action: Approval of Open Session Minutes of February 21, 2018

**Commissioner Monk made and Commissioner Amano seconded a motion to approve the open session minutes of February 21, 2018. The motion carried unanimously.**

3. For Action: Approval of Executive Session Minutes of February 21, 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 Amano made and Commissioner Monk seconded a motion to approve the executive session minutes of February 21, 2018. The motion carried unanimously.**

Chair Marks announced there were members of the public present for certain agenda items; executive session agenda items were taken out of order.

Chair Marks asked a member of the public for item III.B. if he would like to testify during open session for transparency.

The member of the public commented that Revised Charter of Honolulu Section 11-104 on Fair and Equal Treatment was overly broad.

Chair Marks acknowledged the comment and asked whether the member of the public would like to say anything in executive session; the member of the public responded that he planned to speak during executive session.

Chair Marks also acknowledged members of the public regarding item III.A and suggested going into executive session.

**Commissioner Kanda made and Commissioner Monk seconded a motion to**

**move into executive session. The motion carried unanimously.**

**\*\*\*AGENDA ITEMS TAKEN OUT OF ORDER\*\*\***

- III.A. For Discussion and Action: Request for Review of Staff’s Amended Preliminary Determination of February 21, 2018 Ethics Commission Meeting Agenda Item III.C.: Whether Officer Knew or Should Have Known That Officer’s Alleged Partisan Advocacy for Charter Amendment on the November 8, 2016, Ballot Violated RCH Section 11-104 (*Ethics Commission Rules of Procedure* Section 5.5(2)(b))
- III.B. For Discussion and Action: Request for Review of Staff’s Preliminary Determination of February 23, 2018 Regarding Alleged Violation of RCH Sec. 11-104 by City Employees (*Ethics Commission Rules of Procedure* Section 5.5(2)(b))
- III.C. For Action: Request for a Motion to Approve and Adopt Staff’s Draft Advisory Opinion No. 2018-1 Regarding Alleged Violation of RCH Sec. 11-104 Against a City Employee
- III.D. For Discussion: Case Brief – *Kawanakoa v. City and County of Honolulu*, No. CAAP-16-0000366 (App. Feb. 21, 2018) (mem.)

**At 12:52 p.m. Commissioner Monk made and Commissioner Kanda seconded a motion to go out of executive session to return to open session. The motion carried unanimously.**

Chair Marks reported on executive session matters:

Executive Session item III.A – The Commission deferred the matter for further review.

Executive Session item III.B – The Commission agrees with staff’s work on the original investigation; however, based on additional information provided by the complainant, the staff may open a new case if the complainant re-submits and clearly articulates his complaint.

Executive Session item III.C - The Commission approved staff’s draft Advisory Opinion.

Executive Session Item III.D – This discussion was for informational purposes.

**B. Executive Director and Legal Counsel’s Report**

**1. Staff Work Reports Summary**

The EDLC reported that the Senior Clerk Typist is assisting with lobbyist registration and annual report processing, but is part-time and available for 8 hours per week.

The EDLC acknowledged the heavy workload and that the Legal Clerk I is on Temporary Assignment (TA) to the Legal Clerk III position and performing the work of two positions.

The EDLC directed the Commission's attention to the Investigator's and ALC's work pie charts. The administrative work for these positions ranges from 45 percent to 70 percent monthly and has not diminished. Administrative responsibilities include staff meetings, case management meetings, and preparation, execution, and follow-through for Ethics Commission meetings.

The EDLC stated that the Commission's February meeting clean-up took Staff almost three weeks to complete and noted that Staff productivity is very high. The EDLC and Chair Marks thanked Staff for their work.

## 2. Statistics

- a. Website Sessions, February 2018 - 511
- b. Financial Disclosure Filings – Update

The EDLC stated that Staff followed up with requests to the Managing Director and Council Chair regarding delinquent filers in their respective branches.

- c. Lobbyist Registrations, Annual Reports – Update

The EDLC reported that Staff is finalizing lobbyist lists and sending deficiency notices for failure to file registration forms and annual reports.

## 3. Budget

- a. FY2018 Operating Budget – None
- b. FY2019 Operating Budget Request – Update

The EDLC reported that Council recently reorganized. Council Budget Chair is now Councilmember (CM) Trevor Ozawa, CM Ann Kobayashi is the Vice-Chair, and CMs Fukunaga, Manahan, and Pine are committee members.

The EDLC confirmed that the budget briefing before the Budget Committee has been rescheduled to Tuesday, March 27, 2018. Chair Marks stated that she was unavailable to attend. Subject to availability, Vice Chair Lilly or Commissioner Amano may attend.

Chair Marks stated that administration has been supportive of the Commission's budget requests and provided budget for salaries, one (1) of two (2) requested trainings and one (1) laptop computer. Chair Marks further explained that Staff requested the laptop because the former Legal Clerk III had been using her own personal laptop computer to take notes during EC meetings, and when she left, the Commission was without the additional laptop computer.

Chair Marks noted that budget discussions have been cordial and mentioned that the EDLC and ALC needed raises until their salaries become comparable to COR's salaries.

#### 4. Education and Outreach

The EDLC invited the ALC to share training feedback. The ALC stated that feedback included: (1) wanting an extra field in the survey to state "no comment"; (2) one person took 6 (six) hours to complete because of interruptions at the person's desk and the person would have preferred sitting in a class for 2 (two) hours; (3) one person felt that the video clips did not contain enough cultural diversity; and (4) suggesting to change the image for the anonymous caller slide.

The EDLC stated that she reached out to Commissioner Kanda for her expertise to create a new training video for the next biennium training. The ALC added that Legal Clerk Bigornia has been the liaison with the Honolulu Police Department (HPD). Approximately 75 percent of 2,000 sworn officers and employees have taken the training. The ALC pointed out that officers and employees were not required to take the Commission's training in the past. The ALC stated that there were some technical issues with HPD laptops; however, for the most part, training has been successful.

The EDLC stated that the amount of time it takes to trouble-shoot these sorts of issues can be significant—whether it is triaging and putting HPD's Information Technology (IT) together with the City's Department of Information Technology (DIT), being the "middle person," or addressing various requests. The EDLC thanked Legal Clerk Bigornia for managing in-coming issues.

The ALC added that in April, in-person training is scheduled for newly promoted Hawaii Fire Department (HFD) Battalion Chiefs at the HFD Headquarters.

The ALC also mentioned that HPD had extended an invitation to the HPD recruit center/training academy in Waipahu. The ALC stated that she and Legal Clerk Bigornia will attend.

##### a. Ethics Training Program – Update

The EDLC stated that Ethics Training is ongoing in Mindflash for Board and Commission members. The EDLC mentioned that, as scheduled, all Board and Commissioner members should be able to complete online ethics training by the end of the training biennium on June 30, 2018.

#### 5. Audit – None

#### 6. Legislation – Update

The EDLC stated that House Bill (HB) 71 House Draft (HD) 1 now has a Senate Draft (SD) 1. The EDLC referred to the SD 1 attachment in the materials and stated that the bill goes next to Senate Judiciary.

7. Education Opportunities

- a. Office of Administrative Hearings, State Department of Commerce and Consumer Affairs – May 23, 2018

The EDLC stated that the updated training date is on May 23, at the Leiopapa A Kamehameha Building, Room 204. The EDLC requested that the Commission and Staff respond to the invitation so that a headcount could be provided to the Campaign Spending Executive Director, who is organizing the event.

The EDLC stated that she has not yet scheduled the Campaign Spending training for the Commission and hopes that it will be provided sometime later in the spring or early summer.

The ALC added that she has been in contact with the Director of Career Services, University of Hawai'i, William S. Richardson School of Law, to inquire about law school interns.

Commissioner Amano thanked the staff for doing a great job.

8. Integrity Hotline for City and County of Honolulu Employees – None

IV. Strategic Planning

A. For Discussion and Action: Exposure Draft (dated March 21, 2018)

The EDLC referred to the exposure draft, which had been updated with a new date and attachment. The EDLC confirmed that the plan is ready for final approval and publication.

**Commissioner Amano made and Commissioner Monk seconded a motion to approve the Strategic Planning exposure draft. The motion carried unanimously.**

Chair Marks added that the exposure draft should be distributed to everyone, including the unions. The EDLC confirmed that the plan would be shared with all parties from whom comments had been solicited and posted to the Commission's website. The EDLC stated that she will work with the Chair on a cover letter.

The EDLC commented on Commissioner Adler's prior request for a 100-day plan of work. The EDLC stated that staff's plan includes, among other things: lobbyist and financial disclosure legislation; scheduling commissioner education opportunities; and a continuation of the fiscal year 2018 priority list. The EDLC stated that Staff has been working on many of these items as the plan was being developed.

Chair Marks asked about the status of obtaining new positions and personnel. The EDLC confirmed that it was on the 100-day plan and she was trying to complete and submit paperwork to re-describe the Commission's Legal Clerk positions.

The EDLC further explained that the funding for the Legal Clerk III can be used for a Bargaining Unit 13, SR-18, Step C position, described as an Ethics Training Specialist/Investigator I. The EDLC stated that it would be a shared duty position, with 60 percent of time dedicated to managing the ethics training program.

The EDLC also explained that the other 40 percent of the position would be an Investigator I, which would be an entry level investigator position.

**B. For Discussion: Media Policy (dated July 23, 2015) and Crisis Management**

The EDLC suggested deferring the discussion to the next Commission meeting when more members may be available. Commissioner Monk stated that he would not be available for the next meeting. Commissioner Kanda mentioned that she would not be present in May. Chair Marks stated that she would not be present in June. Given scheduled commissioner absences, the EDLC stated she would defer this agenda item to the April meeting.

Chair Marks thanked Staff for being organized and expressed appreciation for everyone and their efforts in hanging in and moving forward. Chair Marks also stated that Commissioners and Staff are invaluable resources. Commissioner Amano commended Chair Marks for her work.

**V. Adjournment**

**At 1:21 p.m., Commissioner Kanda moved and Commissioner Amano seconded to adjourn the Ethics Commission meeting. The motion carried unanimously.**