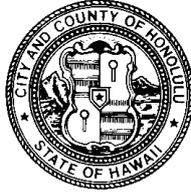


ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 211 • HONOLULU, HAWAII 96813-3091 • AREA CODE 808 • PHONE: 768-7786 • FAX: 768-7768 • Internet: www.honolulu.gov/ethics

KIRK CALDWELL
MAYOR



CHARLES W. TOTTO
EXECUTIVE DIRECTOR &
LEGAL COUNSEL

ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

Date and Place: March 17, 2014
Standard Financial Plaza
Conference Room, Suite 211

Present: Charles W. Gall, Esq., Chairperson [For all items except V.C.]
Katy Chen, Esq., Vice Chair
Michael A. Lilly, Esq., Commissioner
Jeffrey Burroughs, Ph.D., Commissioner
Stephen Silva, Commissioner
Stanford Yuen, P.E., Commissioner [For all items except V.C.]
Charles W. Tutto, Executive Director and Legal Counsel (EDLC)
Laurie A. Wong, Associate Legal Counsel (ALC)
Letha A. S. DeCaires, EC Investigator
Amy R. Kondo, Deputy Corporation Counsel-COR [Item V.B. only]
REDACTED [Items V.B. only]
REDACTED, Esq. [Items V.B. only]
REDACTED, Esq. [Items V.B. only]

Absent: Rachael S. Wong, Dr.PH, Commissioner

Stenographer: Lisa P. Parker, Legal Clerk

I. CALL TO ORDER

The 478th meeting of the Ethics Commission (“Commission” or “EC”) was called to order at approximately 11:40 am by Chair Gall, and since there were several guests in attendance, he asked them to introduce themselves.

The Commission had before it the memorandum regarding the Agenda Items for the March 17, 2014 Meeting, Open Session, dated March 10, 2014.

II. FOR ACTION: REQUEST FOR A MOTION TO APPROVE THE MINUTES OF THE OPEN SESSION OF THE FEBRUARY 19, 2014 MEETING

Chair Gall asked for a motion to approve the minutes. Commissioner Yuen moved to approve the minutes. Commissioner Silva seconded the motion. The motion passed unanimously.

III. OLD BUSINESS

- A. The following meeting of the EC was confirmed for April 16, 2014.
- B. The subsequent meeting of the EC was confirmed for May 30, 2014.

IV. NEW BUSINESS

A. Administrative News

- 1-3. The EDLC referred to his report of March 10, 2014.
- 4. FY 2015 Budget – The EDLC informed the EC that he made his budget presentation to the Budget Committee on March 10, 2014 and referred to OPEN-1 attached to his memo
- 5. Requests for Opinion from Corporation Counsel – The EDLC informed the EC that on Mar 13, 2014, staff received three opinions from COR including the standard for proper justification, and agency due diligence. The last opinion was in regard to credit unions for an informal advisory opinion. EDLC stated that staff will review the opinions and will provide the EC with an update.

[Commissioner Chen entered the meeting at approximately 11:50 am]

EDLC asked the Chair to take the agenda items out of order to accommodate the guests present. **Chair Gall asked for a Motion to enter Executive Session. Commissioner Burroughs made a motion to that effect. Commissioner Lilly seconded the motion. The motion was passed unanimously.**

V. EXECUTIVE SESSION SUMMARY ITEM B - For Action: Hearing Regarding Complainant's Exceptions to the Hearing Officer's Report and Recommendations

Complainant and then Respondent addressed the Commission. The Parties were excused and left the meeting room. The Commission deliberated with their COR Deputy Kondo present. Thereafter, the Parties were asked to re-enter the room.

Chair Gall stated that the EC decided to adopt the Hearing Officer's Report and

that Chair Gall would draft an addendum to the Report that would recommend that a city division provide adequate guidance and rules of procedure to be followed for RFQs. Chair Gall stated that he will work on it for review and adoption by the EC.

Chair Gall asked for a motion to exit executive session. Commissioner Lilly so moved. Commissioner Burroughs seconded the motion. The motion passed unanimously.

IV.B. For Action: Election of Vice Chair of the Commission

Chair Gall asked for nomination of a Vice Chair. Commissioner Lilly asked if Vice Chair was resigning. EDLC replied that the Vice Chair wanted to remain on the EC but felt that due to the workload from her job, she couldn't dedicate enough time to be the Vice Chair of the Commission.

Commissioner Silva nominated Commissioner Chen and Commissioner Yuen seconded the nomination.

Commissioners Yuen, Silva, Burroughs, and Lilly voted in support of Commissioner Chen being Vice Chair. Commissioner Chen voted for Commissioner Lilly. Chair Gall announced that Commissioner Chen was the new Vice Chair of the Commission.

IV.C. For Action: Request for Motion Approving Memorandum to Mayor and City Council regarding Expanding Ethics Commission Jurisdiction to Instrumentalities of the City, Secured Employees and Independent Contractors

The ALC stated that this issue had been deferred from the last meeting as Vice Chair Wong did not want to review this matter until Chair Gall had the opportunity to review the proposed memorandum attached as OPEN-2.

The ALC stated that within the last several years, staff begin receiving more complaints about entities such as instrumentalities of the city such as the Bus employees, secured employees who are hired by the city to perform city jobs, and third party contractors. Therefore, this memo is to bring this issue to the lawmakers attention and to let them know that the EC plans to introduce legislation in the future to expand its jurisdiction to these uncovered individuals.

Commissioner Lilly expressed concern over expanding jurisdiction over independent contractors. He suggested to limit the language to "those contractors that have significant involvement with city works, fiscal authority, and discretionary power. The ALC agreed to make the changes to the memorandum and resubmit it for the EC's review.

The ALC explained as background information that this issue came up when the City Auditor reviewed the Honolulu Authority for Rapid Transportation (HART) contracts for compliance with federal mandates and best management practices, they discovered an

independent contractor that was hired to update HART website, and blog about HART, used city money to write 118 blogs about political, editorial or other inappropriate matters. Had this person been a city employee, he would have been found to have violated the city's ethics laws. Commissioner Yuen asked if the increase in jurisdiction would encompass independent contractors for the entire city or just HART. EDLC responded that it would encompass the entire city.

Chair Gall expressed his concern for increasing the EC's jurisdiction over independent contractors. Commissioner Lilly also stated that it should be narrowed down. The ALC stated that she would revise the memo and resubmit it for their review and approval.

Chair Gall asked for a motion to re-enter executive session. Commissioner Lilly so moved. Commissioner Burroughs seconded the motion. The motion passed unanimously.

V. EXECUTIVE SESSION SUMMARY

A. For Action: Motion to Approve the Executive Session Minutes for February 19, 2014

The EDLC asked for a motion to approve minutes excluding the section that Vice Chair Wong was still reviewing related to EDLC and ALC's salaries. Vice Chair Chen stated that she wanted to defer approval until the entire meeting minutes were prepared.

C. For Action: Request for a Motion to find Probable Cause of Violations of RCH Sec. 11-104 (Misuse of City Funds and Position) and RCH Sec. 11-102.1(a) and ROH Sec. 3-8.8 (Solicitation, Acceptance or Receipt of Prohibited Gifts by Former City Officer

Chair Gall and Commissioner Yuen announced a conflict of interest and recused themselves from this matter.

After discussion, Vice Chair Chen asked for a motion to find probable cause as to Claim II of the Notice. Commissioner Burroughs made a motion to that effect. Commissioner Lilly seconded the motion. The motion passed unanimously.

Vice Chair Chen asked for a motion to exit Executive Session. Commissioner Silva made a motion to that effect. Commissioner Burroughs seconded the motion. The motion passed unanimously.

VI. ADJOURNMENT

Vice Chair Chen asked for a motion to adjourn the meeting. Commissioner Burroughs made a motion to that effect. Commissioner Silva seconded the motion. The motion passed unanimously.

The meeting was adjourned at approximately 1:45 pm.