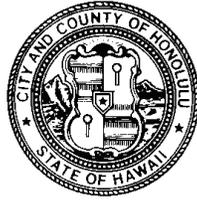


ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

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

MINUTES
ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

Date and Place: May 15, 2013
Standard Financial Plaza
Conference Room, Suite 211

Present: Charles W. Gall, Esq., Chairperson
Michael A. Lilly, Esq., Commissioner
Katy Chen, Esq., Commissioner
Stephen Silva, Commissioner
Jeffrey Burroughs, Ph.D., Commissioner
Stanford Yuen, P.E., Commissioner
Charles W. Tutto, Executive Director and Legal Counsel (EDLC)
Laurie A. Wong, Associate Legal Counsel (ALC)
Henry Wu, Po'okela Intern for Item IV.A only

Absent: Rachael S. Wong, Dr.PH, Vice Chairperson

Stenographer: Lisa Parker

I. CALL TO ORDER

The 468th meeting of the Ethics Commission ("Commission" or "EC") was called to order at 11:48 a.m. by Chair Gall.

The Commission had before it the memorandum regarding the Agenda Items for the May 15, 2013 Meeting, Open Session submitted on May 9, 2013.

II. FOR ACTION: REQUEST FOR A MOTION TO APPROVE THE MINUTES
OF THE OPEN SESSION OF THE APRIL 19, 2013 MEETING

Chair Gall asked for a motion to approve the Minutes of the Open Session of the April 19, 2013 meeting.

Commissioner Lilly made a motion for approval of the Minutes, Commissioner Chen seconded, and all were in favor.

III. OLD BUSINESS

A. Confirming the Date and Time of the June 19, 2013 Meeting

The meeting was confirmed for **Wednesday, June 19, 2013 at 11:30 a.m.**

B. Setting the Date and Time for the Meeting During the Week of July 5, 2013

The meeting was scheduled, instead, for **Monday, July 15, 2013 at 12:00 p.m.**

The Chair asked the EDLC to run through the Administrative News.

IV. NEW BUSINESS

The ALC introduced Po'okela Student Intern, Henry Wu, to the commissioners. Chair Gall stated that the Commission appreciated his help. Staff is very sad to see him leave, because he's been a tremendous help. The EDLC noted some of the key things he's done for the EC: creating the work load surveys of other Ethics Commissions, which helped to get our budget increased; masterfully updating our Inquiries Log; reorganizing the website; helping Lisa track the 600 Financial Disclosure forms; and assisting the ALC with her case law factual research.

Commissioner Silva asked if there was someone else in the wings. The EDLC and ALC responded, "not right now, and not that we know of, but hopefully there's somebody out there."

A. For Discussion: Administrative News

4. Various budget issues:

The most compelling issue is hiring the investigator. The EDLC reported that there are a fair number of retirees with law enforcement background that may be interested.

The Chair asked if it was a full-time position and the nature of the position. The EDLC responded that it will be a full-time position and according to Human Resources, it will be an exempt position but at a pay scale that is identical to an SR-22, which is on the City pay scale at \$45,500. This is a mid-level position, sufficient to handle medium to somewhat complex cases independently. In our office, regardless of the level of experience of the investigators, the attorneys will supervise the investigator's work. The EC will also have funds to bring in other investigators if needed. The EDLC said he has sought applicants both at the State and City levels, HPD and a private investigator association.

The Chair asked if it's required that we post the position, and the EDLC responded that because it's an exempt position, the City doesn't need to post the position.

The Chair asked the anticipated hire date. The EDLC responded, as close to July 1 as

possible. We cannot make an offer until the City Council and Mayor have approved the budget, and that will not occur until June 15 at the earliest. The EDLC talked with Human Resources and they have said that we can interview people, etc., but until the budget is clear, we can't make any commitments. The EDLC informed the Commissioners that he will have Jan Kemp, the Compliance and Ethics Officer for Hawaiian Electric Company, Inc., on the panel to review people, along with the ALC and EDLC. Ms. Kemp recently went through hiring someone in a similar type of position for Hawaiian Electric, so she'll be very helpful with that and has a lot of human resources background.

The Chair asked what the status of the hearing, where we had looked at hiring Dale Lee, and if that was going forward. The EDLC responded that, because the contract amount is over \$2,500, it will require a separate electronic contract application. The EDLC made the application and now it's with either the Corporation Counsel or Budget & Fiscal Services. As soon as that contract is approved, then we can get everything started. As far as the EDLC knows at this point, Dale got everything taken care of on his end, so it's just a matter of waiting for the bureaucratic wheels to turn.

B. For Discussion: Request Made to Corporation Counsel for its Policy Regarding The Scope of COR Representation of Officers and Employees in Ethics Matters

As you recall, the Commission had wanted the Corporation Counsel (COR) to state what its role was going to be, dealing with ethics matters, such as whether they're giving advice to City officers and employees or not. The EDLC had formally requested that of the new Corporation Counsel, Donna Leong, and asked for a response by May 13, but hasn't heard back. The EDLC further reported that he tried to get a hold of Donna this morning but she was unavailable. The EDLC referred to Open-1, which lays out the questions to COR. The EDLC doesn't know about COR's role, but his understanding is that they didn't get involved with representation of officers or employees who had an ethics complaint filed against them. The reason we're not getting a response may be that COR hasn't made a policy decision yet.

Chair Gall responded that the other issue which he would like them address, would be "what is their role in advising the Commission." The EDLC responded that he would ensure that the question is asked regarding when the COR deputy is acting as the advising counsel to the Commission.

Chair Gall asked if there was any further discussion on the April 26 memo to Corporation Counsel from the EDLC and whether there were any other items for the Open session, and since there were none, asked for a motion to go into Executive session. Commissioner Chen so moved, Commissioner Burroughs seconded, and all were in favor.

[Note: Po'okela Student Intern, Henry Wu, exited the meeting.]

V. SUMMARY OF EXECUTIVE SESSION MINUTES

- A. For Action: Request for a Motion to Approve the Minutes of the Executive Session of the April 19, 2013 Meeting. (HRS Secs. 92-5(a)(2), (a)(4) and (a)(8))

The Minutes were approved.

- B. For Action: Request for a Motion to Approve and Adopt a Formal Advisory Opinion Regarding the Use of City Travel Funds. (HRS Secs. 92-5(a)(4) and (a)(8))

The Commission approved a public formal Advisory Opinion, No. 2013-2, describing its recommendations to the Administration and Council to ensure that city funds are not used to pay for personal expenses of city officers or employees.

- C. For Action: Request for a Motion to Find Probable Cause that a City Officer Failed to File a Conflict of Interest Disclosure in Violation of RCH Sec. 11-103. (HRS Secs. 92-5(a)(2), (a)(4) and (a)(8))

The Commission deferred this matter for further information at the next meeting.

VI. ADJOURNMENT