

**MINUTES
OF THE
REGULAR MEETING OF THE
ELECTIONS COMMISSION**

**SEPTEMBER 9, 2008
10:00 A.M.
STATE CAPITOL, ROOM 309
415 SOUTH BERETANIA STREET
HONOLULU, HAWAII 96813**

Commissioners in Attendance:

Mr. John Chan
Mr. William Marston, Chair
Mr. Harold Nelson
Ms. Zale Okazaki
Ms. Donna Soares
Mr. Richard Swift
Mr. Daniel Young

Technical Support Staff in Attendance:

Ms. Robyn Chun, Department of the Attorney General
Mr. Kevin Cronin, Chief Election Officer
Ms. Ciress Cuevo, Office of Elections
Ms. Stacy Miyasato, Office of Elections
Mr. Scott Nago, Office of Elections
Mr. Rex Quidilla, Office of Elections
Mr. David Rosenbrock, Office of Elections
Mr. Russell Suzuki, Department of the Attorney General

Guests in Attendance:

Ms. Barbara Annis, Department of Accounting and General Services
Ms. Elizabeth Connally, Election Systems & Software - AHFI
Ms. Nancy Cook Lauer, Stephens Media
Mr. Bart Dame, Democratic Party of Hawaii
Mr. Adam Deguire, Hawaii Republican Party
Mr. Rich Geppert, Hart InterCivic
Mr. Travis Harrell, Hart InterCivic
Ms. Kim Langly, Office of Senator Kim
Mr. Willis Lee, Hawaii Republican Party
Mr. Mark Niese, Associated Press
Mr. Elwin Spray

PROCEEDINGS

I. Call to Order

The meeting was called to order by Chair William Marston at 9:58 a.m. on September 9, 2008 at the State Capitol in room 309.

II. Swearing in of New Commissioner: Mr. Daniel Young

Chair Marston announced that this item would be taken up upon Mr. Daniel Young's arrival.

III. Roll Call and Determination of a Quorum

Chair Marston conducted roll call. Ms. Yuki Lei Sugimura was absent and Mr. Young was late.

Ms. Zale Okazaki moved to amend the agenda to add as an additional matter to item VIII, executive session, legal issues related to the resignation of Ms. Susan Russell from the Elections Commission. Mr. Harold Nelson seconded, and the motion carried unanimously.

IV. Approval of Minutes of Meeting of July 31, 2008

Mr. Harold Nelson requested that his vote under item VI be amended to a yes vote. Mr. Nelson explained that after seeking clarification on the matter, he changed his vote to yes.

Ms. Okazaki noted that the spelling of the word, "bare" under item IV should be corrected to "bear."

Ms. Donna Soares moved to approve the minutes of the meeting of July 31, 2008 with amendments. Ms. Okazaki seconded, and the motion passed unanimously.

V. Public Testimony – Any interested person may submit data, views or arguments on any agenda item

Ms. Elizabeth Connally provided written and oral testimony on behalf of Election Systems & Software expressing concerns regarding the Office of Elections' procurement of the voting system.

Mr. Bart Dame, Democratic Party of Hawaii stated on behalf of the party that their position regarding the CEO was misunderstood in the media. Mr. Dame noted that the Democratic Party looks forward to working with the CEO and acknowledged

the CEO's efforts to learn. Also, Mr. Dame expressed his concerns regarding the need for transparency in the elections process.

VI. Update on Election Planning Status – Chief Election Officer

The CEO provided an update on preparations for the Primary Election. The CEO reported on absentee walk-in voting sites in operation, precinct official recruitment status, ballot printing, setup of Counting and Control Center, communication system established for the polling places and Control Center, voter education initiatives such as the Hawaii Votes Brochure mailed to every household with a registered voter, voter services for the Hawaii Army National Guard and noted commendations received by Office of Elections staff for these efforts.

In response to Mr. Nelson's inquiry regarding the use of federal funds for this year's elections, the CEO noted that the Office of Elections can account for any federal funds expended and stated that the Help America Vote Act (HAVA) of 2002 establishes the framework which outlines how HAVA distributed funds are authorized to be used. The CEO noted that \$4 million of HAVA funds to be used for the 2008 elections has been encumbered, as well as \$1.3 million of general state revenue has been established and set aside for payment. Additionally, a total of \$1.3 million was contributed by the counties in proportional shares for payment of the voting system. Under the Hart contract, half of the \$6.6 million was billed to the Office of Election and has been paid. The second half of the payment is due 30 days after the General Election and will be paid upon receipt of the invoice.

Mr. Dame expressed his concerns regarding voter education for the select a party section of the Primary Election ballot and inquired whether party votes would count if a voter did not select a party. Mr. Scott Nago, Office of Elections stated yes and explained that there is a manual process in place to ensure that votes are counted. In response to Mr. Dame's question whether it is possible to account for the number of incorrectly voted ballots as a possible result of the select a party feature, Mr. Nago noted that the report will provide the number of multiparty votes and votes cast by political party.

Mr. Dame asked if it is possible to print the results on the neighbor islands at the county level to ensure that the results transmitted to Honolulu are correct. Mr. Nago stated that results are generated on Oahu and that the paper ballots remain with the county should any questions arise.

Ms. Kim Langly inquired whether ballots are counted in Maui. Mr. Nago stated that tabulation of votes occurs in Honolulu to provide statewide central results.

Chair Marston asked that the Office of Elections look in to this matter after the Primary Election to possibly be addressed for the General Election.

Chair Marston announced the arrival of Mr. Daniel Young. Ms. Robyn Chun, Deputy Attorney General swore in Mr. Young as a Commissioner.

VII. Voting Machine Demonstration

Hart representatives, Mr. Rich Geppert and Mr. Travis Harrell conducted the demonstration of the Hart voting system. The demonstration provided an overview of the eScan for paper ballots and the eSlate for electronic ballots.

VIII. Executive Session pursuant to Haw. Rev. Stat. §92-5(4). Consult with counsel re: the following pending lawsuits:

1. Candidate challenge (Willes Lee v. Cronin, Civil No. 08-1-1609)
2. Babson v. Cronin, Civil No. 08-10-378(3)
3. Procurement appeals (ES&S v. Cronin, Civil No. 08-101657-08, Hart InterCivic v. ES&S, Civil No. 08-1-1665-08, Cronin v. ES&S, Civil No. 08-1-1680-08)

[confidential attorney/client communication]

Ms. Okazaki moved for the Commission to go in to executive session. Mr. Richard Swift seconded, and the motion carried unanimously.

The Commission resolved to executive session at 11:17 a.m. and reconvened in open meeting at 11:50 a.m.

IX. Adjournment

Chair Marston adjourned the meeting at 11:56 a.m.

Respectfully submitted,
Ciress Cuevo
Elections Commission Secretary