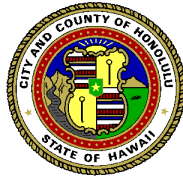


ETHICS COMMISSION  
**CITY AND COUNTY OF HONOLULU**

715 SOUTH KING STREET, SUITE 211, HONOLULU, HAWAII 96813-3091  
Phone: (808) 527-5573 § Fax: (808) 527-6936 § EMAIL: ethics@honolulu.gov  
Internet: www.honolulu.gov/ethics

MUFI HANNEMANN  
MAYOR



CHARLES W. TOTTO  
EXECUTIVE DIRECTOR & LEGAL COUNSEL

MINUTES  
ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU

Date and Place: December 13, 2005  
Standard Financial Plaza  
Conference Room, Suite 211

Present: Robin D. Liu, Chair  
Lex R. Smith, Vice Chair  
Susan S. Heitzman  
Wayne T. Hikida  
Cynthia M. Bond  
Charles W. Totto, Executive Director and Legal Counsel (EDLC)  
Matthew J. Viola, Outside Counsel

Stenographer: Norm Fisher

I. CALL TO ORDER

The 391<sup>st</sup> meeting of the Ethics Commission (Commission or EC) was called to order at 11:41 a.m. by the Chair.

II. APPROVAL OF THE MINUTES OF THE OPEN SESSION OF THE  
NOVEMBER 17, 2005 OPEN MEETING

The minutes of the open meeting of November 17, 2005, were unanimously approved.

III. OLD BUSINESS

- A. Confirming the date and time of the January 24, 2006 meeting and setting the date and time for the February, 2006 meeting

The EC confirmed the January 24, 2006 at 11:30 a.m. and set the date and time for the February 21, 2006 at 11:30 a.m. meeting in the Standard Financial Plaza Conference Room, Suite 211.

#### IV. NEW BUSINESS

##### A. Administrative news

The Executive Director and Legal Counsel (EDLC) referred to his memorandum dated December 5, 2005, outlining the ethics training conducted to date in fiscal year 2006.

##### B. Report on Bill 52, changing the regulation of lobbyists from the Council to the Ethics Commission

The EDLC reported that the bill has been approved by the Mayor, and has been enacted into law. The EDLC stated that staff will be sending out letters to lobbyist informing them of the change, and where to file their annual reports.

##### C. Report on the meeting of the Commission staff with various agencies regarding public integrity matters

The EDLC reported that the meeting was held on November 21, 2005, and included Corporation Counsel, City Auditor, Internal Control and the Labor Relations Division. The EDLC reported that the meeting went well, with most questions being about how the Ethics Commission determines when to get involved.

The EDLC stated that due to the potential of a conflict of interest, the City Auditor felt it would be inappropriate for it to participate in any future meetings.

The EDLC stated that staff intends to meet again with the various agencies sometime in January 2006.

##### D. Report and recommendation regarding request for comments on Resolution 05-349 CD1 from the Council's Executive Matters and Legal Affairs Committee

The ELDC reported that the city Council's Committee on Executive Matters and

Legal Affairs (Committee) has asked for the EC's comments on a proposed policy to cover the solicitation, acceptance and use of gifts to the city. The EDLC stated that the current policy is confusing and has resulted in different departments employing different policies and approaches.

The EDLC stated that the Council interprets the Charter to mean that it is the only body that may accept gifts on behalf of the city and a gift not approved by the Council may not be expended or used by the city or an agency. The EDLC stated that because of the confusion caused by the existing resolution, Councilmembers Marshall and Djou have introduced new draft policy resolutions that should provide better guidance to the departments in dealing with gifts to the city.

The EDLC stated that the Committee expects the Commission to set standards of conduct for city personnel involved in soliciting or accepting gifts to the city. The EDLC stated that staff recommends that the EC adopt the following proposed amended language and have staff convey it to the Committee for inclusion in the Resolution:

A city officer or employee shall not solicit, receive or accept any gift to the city under circumstances that create a reasonable appearance of:

- (1) Rewarding, influencing or tending to impair the judgment of any city officer or employee in the performance of the officer's or employee's official duties; or
- (2) Providing special consideration, treatment, advantage, privilege or exemption for or coercing a potential donor.

The Ethics Commission shall establish, as needed, standards of conduct for city officers and employees who deal with any person or entity who has provided, is solicited to provide or intends to provide a gift to the city.

After discussion, the EC moved, seconded and unanimously carried to adopt staff's recommendation to convey the proposed amended language above and have staff convey it to the Committee for inclusion in the Resolution.

The EC moved, seconded, and unanimously carried to go to the executive session.

## V. EXECUTIVE SESSION SUMMARY

### A. Approval of the minutes of the executive session of the November 17, 2005 meeting

The minutes of the executive session of November 17, 2005 were unanimously approved.

### B. Report and recommendation regarding possible violation of RCH Section 11-102(c) (conflict of interest arising from financial interest), RCH Section 11-103 (failure to disclose conflict of interest) and/or RCH Section 11-104 (use of city position to obtain unwarranted advantage) by a city employee; EC No. 02-037(w)

The EDLC reported that the EC received a complaint alleging that, in the course of his city employment, a city employee had purchased supplies through his girlfriend with whom he lived at the time and fathered a child. His girlfriend was the salesperson for a vendor to the city department.

The EDLC stated that the city department investigated whether the city employee's purchases through his girlfriend were reasonable and necessary, and concluded that the purchases were appropriate in quantity and price. The EDLC stated that the city employee asked for a meeting with staff, which occurred on January 5, 2005. The EDLC stated that based on the conversation he had with the city employee, the EDLC contacted the man who supervised the city employee during the time he made the purchases.

The EDLC stated that the supervisor corroborated the city employee's statement that he had been temporarily assigned as a section head. In that capacity, on occasion the city employee was required to submit purchase requests for materials to help run the city department. The EDLC stated that the city employee raised the issue to his supervisor that it may be inappropriate for him to originate purchase requests that ultimately would be transmitted to and filled by his girlfriend and her employer. The EDLC stated that the city employee asked his supervisor whether there was a problem with his making such

requisitions and was told that, as long as he followed the established procurement procedures, there should not be a problem.

The EDLC stated that based on the facts and analysis, staff recommends that the Commission conclude that the city employee violated RCH Sections 11-102(c), 11-103 and 11-104. The EDLC stated that should the city employee have sought advice from the Commission as to how to avoid the predicament, he would have avoided the ethics problems and the lengthy investigation. The EDLC stated that staff does not recommend any discipline. The EDLC stated that an advisory opinion should be sufficient for the city employee and others in similar situations to understand the potential downside of failing to follow the letter of the law and to seek advice.

After further discussion, the EC moved, seconded and unanimously carried to adopt staff's recommendation.

The EC moved, seconded, and unanimously carried to return to the open session.

## VI. ADJOURNMENT

The EC moved, seconded, and unanimously carried to adjourn the meeting. The meeting was adjourned at 12:10 p.m.