

HCR 358 TASK FORCE MINUTES OF MEETING

Date: June 30, 2008
Time: 1:00 p.m.
Place: The following State of Hawaii Video Conference Centers:

Big Island:
Hilo State Office Building
75 Aupuni Street, Basement
Hilo, HI 96720

Kauai:
Lihue State Office Building
3060 Eiwa Street, Basement
Lihue, HI 96766

Maui:
Wailuku Judiciary Building
2145 Main Street, Room 120
Wailuku, HI 96793

Oahu:
Kalanimoku Building
1151 Punchbowl Street, Room B10
Honolulu, HI 96813

The agenda for this meeting was filed with the Office of the Lieutenant Governor.

- I. Call to Order --The meeting was started at 1:00 p.m. by Clyde Sonobe. Notes were taken by the Facilitator; no verbatim transcript was made of the Meeting nor was it officially recorded.
 - A. Kick off meeting, Clyde Sonobe
 - B. Introduction of Facilitator, David Franzel
 1. Ground Rules requested by Facilitator (should follow Agenda, one person speaks at a time, civility, no personal attacks, no interrupting a speaker, allow speakers to finish without interruption).
 2. Jay April objected to use of this Facilitator and asked if he was selected by an RFP; Clyde Sonobe said that there was no RFP. DCCA retained David Franzel to facilitate task force meetings but since the matter of whether to have a facilitator and appointing a facilitator were not on the agenda, the Task Force took no action.
 3. Facilitator mentioned that he understood from his retention that he was to submit a report for ultimate submission to the Legislature by early December. As such, the Facilitator indicated that he needed final input from the Task Force by the end of November because of the time required for drafting and Task Force Review in order to have the Report ready for the Legislature on time. One member of the Task Force indicated that the Task Force would consider the timing requirements for the Report.

- II. Introduction of Task Force Members
 - A. Present
 1. MaBel Fujiuchi Hoike
 2. Eric Knutzen County of Kauai
 3. Gil Benevides County of Hawaii
 4. Jay April Akaku

5. Roy Amemiya Olelo
6. Muriel Taira CAC
7. David Lassner UH
8. Gerri Ann Hong DOE
9. Clyde Sonobe DCCA
10. Gregg Hirata City and County of Honolulu

B. Excused

1. Shelley Pellegrino County of Maui
2. Gerald Takase Na Leo

- i. Note: Akaku submitted notes that listed Excused/Not Approved for this section and included Members Pellegrino, Takase, and the CAC appointee; it needs to be confirmed that Akaku believed that CAC attendee Muriel Taira was not an approved member. Since that time, Muriel resigned and Keith Rollman took her place.

C. Facilitator read through each item on the Agenda, prepared and previously provided by DCCA to the Task Force.

1. Jay April and member of the public Lance Collins objected to the continuation of the meeting without first taking oral testimony from members of the public.
2. Jay April objected to the presentation by State Procurement Office staff person Aaron Fujioka who was not a Task Force member.
3. Jay April and Lance Collins objected to the Agenda item re presentation of HCR 358 requirements.
4. The Task Force indicated that it believed that it could take no action on the current Agenda prior to having a Chair and Vice Chair elected. DCCA counsel opined that public comment need not be taken until substantive items were discussed. As the Task Force determined that there could be no Task Force action on the Agenda at that time, the Task Force and the Facilitator continued on with the Agenda.

III. OIP Presentation on the Sunshine Law -- Clyde Sonobe commented that it was not obligatory to follow the Sunshine Law according to OIP since OIP had withdrawn its initial opinion and went on to say that the Sunshine Law would be followed in principal, here. There was a comment in response indicating that the OIP ruling merely withdrew the earlier ruling and did not indicate that Sunshine did not apply. Jay April and Lance Collins maintained that the Task Force should adhere to the Sunshine Law.

- IV. State Procurement Office Presentation of the Public Procurement Code -- Aaron Fujioka gave a presentation on the Public Procurement Code. Task Force members asked for follow up on the Sole Source Exemption granted Hawai'i Public Television. Task Force members also asked for the AG opinion indicating that procurement was required for the designation of access organizations. Clyde Sonobe indicated that he believed that the AG opinion was confidential since it was covered by the attorney-client privilege. Task Force members requested more information on the Akaku lawsuit in the Second Circuit Court. Persons unknown present at one of the video locations repeatedly tapped their microphone throughout Mr. Fujioka's presentation making it extremely difficult to hear him and the follow up questions/answers posed by Task Force members.
- V. Review of House Concurrent Resolution No. 358, H.D. 1 Requirements – Jay April and member of the public Lance Collins objected to the Facilitator reviewing the Resolution with Task Force members without first taking public comment. It was indicated that the Task Force could provide no guidance to the Facilitator on changing the Agenda to take public comment prior to this item as no Chair and Vice Chair were in place. The Facilitator continued on with the Agenda and read the Resolution sections to attendees.
- VI. Public Comment - Public comment was taken. A time limit of 3 minutes/person was requested by Task Force members present in the Oahu Center in order to ensure that all public present had an opportunity to speak with any time left over for additional comments. Notes of the public comments are attached.
- VII. Preparation for Next Meeting -- Eric Knutzen took over as Interim Chair of the Task Force to gain Task Force input for the Agenda for the next meeting which was set for Monday, August 4, 2008 and to conduct the discussion at the August 4, 2008 meeting regarding Chair/Vice Chair selection and a facilitator. The Agenda was separately transmitted and posted.
- VIII. Adjournment -- The meeting adjourned at 3:30 pm.

Task Force Meeting, June 30, 2008;
Public Comments

Notes of Public Comments

The public testified at the Meeting. Due to time constraints, Task Force members asked that each person testifying limit their testimony to three (3) minutes in duration with the potential for additional time should time be available once all attendees had an opportunity to testify. Once public testimony began, all present had an opportunity to speak with some taking quite a bit less than three (3) minutes and some taking more. A Court Reporter did not attend the meeting so the public comments noted were taken from the Facilitator's notes. Task Force Member April submitted revisions to the Public Comments which have been incorporated below. The Facilitator recommends that the Task Force record future meetings.

Degrav Vanderbilt

Vanderbilt made a request that all information related to the failed procurement process with access organization designation be put on the DCCA website and copies given to the Task Force members. Vanderbilt recommended testimony be taken prior to issues being reviewed or discussed by task force members. Vanderbilt also suggested the testimony from the SB No. 1789 hearings be available to task force members. Vanderbilt opposes the use of the procurement process for access organization designation as best value/lowest price scheme is incompatible with community access television.

Lance Collins, Esq.

Collins noted that the Task Force is subject to the Sunshine Law and if not, should still comply with it voluntarily. Collins pointed out that parliamentary law should be followed except when altered by majority vote Collins noted that whether to have a facilitator and who that facilitator should be must be approved by the Task Force. Collins urged the Task Force to review and consider written public testimony to the DCCA, Procurement Policy Board, and State Legislature on the issues of applicability of procurement to access organization designation and also the official RFP protests and transcripts of relevant public hearings and court proceedings. Collins encouraged the Task Force to seek the original AG opinion that started the controversy. Collins strongly endorsed the Task Force to put emphasis on its charge to solicit public input. (Akaku attorney)

Michael Duberstein

Duberstein opposes the application of procurement to access organization designation. Duberstein feels well enough alone and believes that the procurement issue diminishes and stifles free speech. Duberstein believed that the HCR 358 resolution and the Task Force would be a sham if it supported the inappropriate application of procurement.

Jimmy Conniff

Conniff supports Akaku Maui Community Television. Conniff gave some personal experiences with community access television. Conniff rejects the application of procurement to access organization designation.

Linda Puppolo

Puppolo reported that the procurement process interferes with regular operations and that an RFP would eliminate flexibility and security of Akaku's small budget. Puppolo pointed out that the procurement process eliminates public input from the process. Puppolo noted also that Akaku has been subject to three audits since 2005 and there has been no evidence of wrong doing. Puppolo didn't understand that if PBS was subject to procurement and given a sole source exemption, why wouldn't PEGs get sole source exemption. (Akaku employee)

Sara Tekula

Tekula reminded the Task Force that the DCCA is a government entity and public servant and works "for us." Tekula noted that Akaku is Maui's favorite non-profit. Tekula pointed out that access organizations do not use state or public funds – monies from cable operators go to access

Task Force Meeting, June 30, 2008;
Public Comments

organizations as a term of their franchise. Tekula noted that procurement process would force a community organization like Akaku into an inappropriate business model.

Tyson Saucier

Saucier demanded the Task Force follow the law and the constitution including the First Amendment. Saucier indicated he would be watching and the public would be carefully watching the Task Force's actions.

Nikhilananda

Nikhilananda was disturbed by the DCCA's attempt to force the Task Force to accept a facilitator and David Franzel's domination of the meeting. Nikhilananda supported the accommodation of public testimony. Nikhilananda opposes the application of the procurement process to access organization designation.

Ed Coll

Coll disputed the legitimacy of the Task Force because of the lack of independent members without ties to access organizations, government or education. Coll supports the application of the procurement process to access organization designation. Coll criticized commingling of funds and believes access organizations are robbing the public and are dysfunction.

Carol Bain

Bain noted that the task was incredible and questioned the challenge of ensuring a fair process. Bain believed a financial and performance audit should be conducted by the state.

Juergen Denecke

Denecke opposes the application of procurement process because it is inappropriate for the "market place of ideas." Denecke cited the Second Circuit Court decision of Judge Joel August. Denecke believes there is a better way. (Na Leo employee)