

COUNTY OF HAWAII
SALARY COMMISSION
July 7, 2003

MINUTES

Mr. Tanaka, Chair Pro Tem, called the meeting to order at 1:34 p.m. in the Conference Room of the Department of Liquor Control, 101 Aupuni Street, Suite 230, Hilo, Hawaii.

Present:

Mr. Yoshiichi "Joe" Tanaka, Chair Pro Tem
Mr. Glenn Hara, Member
Mr. Tsukasa Ishii, Member
Mr. Gerald Kita, Member
Mr. Paul Mann, Member

Excused:

Mr. J. William Sanborn, Chair
Mr. Joel Nye, Vice Chair

Absent:

Mr. Jason Hashimoto, Member
Mr. Richard Rego, Member

Others present:

Mr. Michael R. Ben, Director of Personnel
Mr. Gerald Takase, Assistant Corporation Counsel
Mr. Lincoln Ashida, Corporation Counsel
Ms. Joney Nitahara, Personnel Program Specialist
Ms. Velma Y. Menezes, Secretary-Reporter

STATEMENTS FROM THE PUBLIC

Mr. Ashida spoke to Communication No. 03-15, noting that according to Mr. Hara's motion, the uniform allowance was granted subject to Corporation Counsel follow up. Mr. Ashida explained that in reviewing Mr. Takase's old opinion that the Salary Commission does not have jurisdiction over car allowances, he was not able to square in his mind how that differed from uniform allowances.

Mr. Hara stated that somewhere down the line, the Commission may recognize certain kinds of benefits that may benefit the employee on a tax-free basis, but the opinion is tying their hands. In looking at the two different

subsections in the Charter, the first says the Salary Commission sets salaries. The other function is to make sure that the salaries and benefits are comparable. How can the Commission make it comparable unless it can provide a benefit?

Mr. Ashida stated that he looked at that language, and the way he read it was that the Commission has the jurisdiction to set a controlled salary. In doing so, the Commission sets it so that when they compare it to comparable salaries with government and private sectors, they balance it out arguably knowing that they have no control over the non-salary benefit. According to his opinion, if the Commission wants to give the additional dollars per month, it could be done under the standard of conduct pay, but not uniform allowance.

Mr. Takase informed the Commission that the Maui Salary Commission is thinking in terms of this Commission regarding non-salary benefits. Mr. Takase shared their opinions with Maui's Corporation Counsel and will keep tabs on the end results of that.

Mr. Ashida suggested that instead of asking Corporation Counsel for a blanket opinion on what it can and cannot do, maybe they could raise particular items one by one as it comes up.

MOTION: Mr. Hara moved that Communication No. 03-15 be received and filed. The motion was seconded by Mr. Kita and unanimously carried.

At this point, Mr. Tanaka opened the floor for nominations for Chair Pro Tem for this meeting.

MOTION: Mr. Kita nominated Mr. Tanaka as Chair Pro Tem. The motion was seconded by Mr. Hara and unanimously carried.

APPROVAL OF MINUTES OF MAY 30, 2003

Mr. Tanaka noted that there were no additions or changes to the minutes; therefore, the minutes shall stand as distributed.

COMMUNICATIONS

A) Communication No. 03-14, dated June 16, 2003, from Lincoln S. T. Ashida, Corporation Counsel, submitting advice on having a Salary Commission Secretary.

B) Communication No. 03-16, dated June 23, 2003, from Michael R. Ben, SPHR, Director of Personnel, regarding Salary Commission members' attendance at meetings.

C) Communication No. 03-17, dated June 20, 2003, from Lincoln S. T. Ashida, Corporation Counsel, commenting on the Salary Commission's criteria for evaluating department and agency heads.

D) Communication No. 03-18, dated June 25, 2003, from Patricia Engelhard, Director, and Pamela Mizuno, Deputy Director, Department of Parks and Recreation, commenting on the Salary Commission's tiered compensation system.

MOTION: Mr. Hara moved that Communication Nos. 03-14, 03-16, 03-17, and 03-18 be received and filed, subject to any Commissioner's comments on any of the communications. The motion was seconded by Mr. Kita and unanimously carried.

Communication Nos. 03-17 and 03-18 will be referred to the Tier Review Subcommittee.

UNFINISHED BUSINESS

A) Communication No. 03-15, dated June 16, 2003, from Lincoln S. T. Ashida, Corporation Counsel, submitting an opinion on the authorization of Salary Commission concerning Police "uniform allowance."

Mr. Tanaka stated that he is of the conservative stance and is looking more toward sticking with salaries as the role and function of this Commission, and not delve into the area of benefits, which, under the Charter, doesn't fall under the Commission's role and function. Mr. Tanaka voted for the motion on uniform allowance because it is a benefit given to other persons, and the Chief and Deputy Chief do wear uniforms. Standard of conduct is another thing.

Mr. Mann noted that what they are discussing is called remuneration, and private industry provides things like cars as part of the package. A uniform allowance is just as much part of the package as providing a vehicle to get them to and fro. In a sense, this could be considered part of their remuneration as well. Mr. Mann asked why that would be different just because this is the County.

Mr. Takase noted that the original question asked of him was what this Commission could consider, and it was his opinion that the Commission's function was to consider salaries. Taking the uniform allowance, in particular, even that has metamorphasized over time. It became a standard of conduct, understanding that part of it was for uniforms and laundering the uniforms. It was paid to the employees, and they went and got it done, as opposed to private industry where the employer might contract it out to dry clean or launder all the uniforms for the employees. It's called a benefit, but Mr. Takase doesn't know that it really is anything other than an allowance or an additional salary, so they may be splitting hairs when they really don't have to.

Mr. Ben explained that the primary difference between government and private industry is that private industry doesn't have all these laws applying to them as government does. While private industry has federal laws and guidelines

to follow when it comes to benefits, the public sector has even more specific laws like the one they're trying to interpret now that says the Salary Commission decides salaries. Chapter 89 under Hawaii Revised Statutes says that the Chief Executive grants benefits to anybody who's excluded from collective bargaining.

On the specific issue, Mr. Ben thought the Commission was getting too hung up about where the standard of conduct differential came from and didn't have an appreciation of the collective bargaining process, which is a matter of trade offs. The Police union felt that rather than a uniform and gun allowance, which the retirement system didn't consider as part of the salary, they wanted it tacked on to salary and calculated into their benefits. Those are the kinds of things that they bargained out. It was more important for them to have money there, so they gave up something else in order to get it.

Mr. Ben noted that Chapter 89C, HRS, says that for employees excluded from collective bargaining, the Mayor, by executive order, grants benefits. It's a statewide law, and there was an HGEA vs. Maui State Supreme Court Decision that says the general statute applies over the home rule issue.

MOTION: Mr. Hara moved that the Commission send a letter to the Mayor informing him of the Commission's initial action, Corporation Counsel's subsequent opinion, and finally the Commission's recommendation that the Mayor grant the uniform allowance as authorized under Chapter 89C, HRS. The motion was seconded by Mr. Mann and unanimously carried.

NEW BUSINESS

A) Election of Secretary for Calendar Year 2003.

MOTION: Mr. Kita moved to nominate Mr. Tanaka as Secretary.

MOTION: Mr. Hara moved that nominations be closed. The motion was seconded by Mr. Ishii and unanimously carried.

A vote was taken on Mr. Tanaka's nomination for Secretary. The motion carried unanimously.

B) Establishment of Salary Commission subcommittee to study salary tiering for departments/agencies.

Mr. Tanaka noted the communication received from Chair Sanborn, which was distributed at today's meeting.

MOTION: Mr. Hara moved that the Commission appoint a subcommittee as outlined in Mr. Sanborn's letter dated July 3, 2003, to include Mr. Mann, representing West Hawaii. The motion was seconded by Mr. Kita.

Discussion:

Mr. Takase noted a correction to the number of appointments suggested in Chair Sanborn's letter. Chair Sanborn recommended an appointment of "no more than five members," but the subcommittee should consist of less than five members, as five constitutes a quorum, thereby a meeting. This does not mean that other Commission members can't provide input if they would like to.

The motion was voted on and carried unanimously.

MOTION: Mr. Hara moved that Communication Nos. 03-17 and 03-18, along with the communications received today (Liquor - assigned No. 03-19 and Legislative Auditor - assigned No. 03-20) be referred to the newly created Tier Review Subcommittee. The motion was seconded by Mr. Kita and unanimously carried.

The Tier Review Subcommittee was established consisting of Mr. Hara, Mr. Tanaka, Mr. Kita, and Mr. Mann.

Mr. Takase opined that if other Commissioner members want to attend the subcommittee meetings, it won't be a problem, as they are not voting members. As a subcommittee, it's not necessary to comply with the sunshine law by announcing the meetings to the public. The rest of the Commission members can attend, understanding that they're coming to listen and ask questions, but the recommendation to the full Commission will be coming from the four subcommittee members.

NEXT MEETING DATE

The Commission scheduled its next meeting for Friday, October 17, 2003, at 10:00 a.m., at the conference room of the Department of Liquor Control.

ADJOURNMENT

The meeting adjourned at 2:34 p.m.

Respectfully submitted,

Yoshiichi "Joe" Tanaka
Chair Pro Tem

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