

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

Friday, May 2, 2014
State Capitol, Room 1524
Lincoln, Nebraska

Call to Order – Chairman Hosford called the meeting to order at 9:05 a.m. and announced the location in the meeting room of a copy of the Public Meetings Law.

Roll Call –

- Kevin Brostrom – Present
- Sean Conway - Present
- John Gale – Present
- Joseph Grant - Present
- Paul Hosford – Present
- Andrew Loudon - Present
- Jan Mumm - Present
- Timothy Schulz - Present
- Brad von Gillern - Excused

Approval of the Open Session Minutes of the January 17, 2014 Meeting – Chairman Hosford referred the Commissioners to their copies of the Open Session Minutes of the previous meetings.

Motion by Conway, second by Mumm, that the Open Session Minutes of the January 17, 2014 meeting be approved as presented - Roll Call Vote: Commissioners Conway, Gale, Grant, Hosford, Mumm, and Schulz voted yes. Commissioners Brostrom and Loudon abstained. Motion carried (6-0-2).

Report on late filing fees and requests for relief: CARE PAC, Michaela Mallery – Executive Director Daley indicated that this matter is a request by CARE PAC to have the Commission to review the Executive Director’s denial of relief from late filing fees. The Commissioners were also asked to review additional information provided by Michaela Mallery of CARE PAC. The Executive Director reported that this matter concerned an Annual Campaign

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Statement that was due on January 31 and filed February 25, 2014. The late fee is \$625.

Daley noted that the CARE PAC reported receipts of \$31,000 and expenditures of \$8,000. Accordingly, it did not meet the requirement that the statement disclose receipts and expenditures of \$5,000 or less. In addition CARE PAC had paid late filing fees during the two years prior to the date that the filing was due.

Discussion followed.

Motion by Brostrom, second by Grant, to deny the request for relief from late filing fees for CARE PAC - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, and Schulz voted yes. Motion carried (8-0-0).

Report on late filing fees and requests for relief: Ron Romero Consulting, Inc., Ron Romero – Executive Director Daley indicated that this was a request for relief from late filing fees for Ron Romero Consulting, noting that Mr. Romero was present. This matter involved a Report of Political Contribution by a Corporation that was due November 12, 2013 and filed on February 3, 2014 resulting in late filing fees of \$750. There was a request for relief and it was reported that Romero Consulting was not eligible for relief due to late filing fees of \$750 reduced to \$0 for a report due February 11, 2013 and a report reduced from \$575 to \$25 for a report that was due April 10, 2014. Mr. Daley indicated that by reason of the \$25 payment the filer was not eligible for relief.

Ron Romero, of Ron Romero Consulting, Inc. appeared and gave a presentation.

Discussion followed.

Motion by Gale, second by Brostrom, to deny the request for relief from late filing fees for Ron Romero Consulting – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, and Schulz voted yes. Motion carried (8-0-0).

Report on late filing fees and requests for relief: Mike Meister for Legislature – The Executive Director indicated that this was a request for relief from Mike Meister Attorney At Law PC LLO involving the failure to timely file a Report of Political Contribution of a Corporation. This report was due January 10, 2014 and received March 6, 2014 and resulted in \$750 in late filing fees. Mr. Daley indicated that the reason for the denial of the request for relief from late filing fees was that the filing discloses expenditures of \$11,600 and therefore does not meet the criterion that the filing not disclose receipts or expenditure exceeding the \$5,000.

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Mike Meister of Mike Meister Attorney at Law PC next appeared and gave a presentation. He argued that the statute upon which the Commission relies is not applicable or is vague.

Discussion followed.

Motion by Grant, second by Loudon, to grant relief from late filing fees for Mike Meister for Legislature – Roll Call Vote: Commissioners Conway, Grant, Loudon and Schulz voted yes. Commissioners Brostrom, Gale, Hosford, and Mumm voted no. Motion failed (4-4-0).

The Executive Director noted that because the motion failed and resulted in no action by the Commission, the denial of relief would stand.

Report on late filing fees and requests for relief: Friends of Ron Harnett for Legislature, Ron Harnett – Executive Director Daley indicated that this was a request for relief from Friends of Ron Harnett Committee. He noted that additional materiel had been sent by Mr. Harnett for the Commissioners to review. Daley stated that Mr. Harnett was an unsuccessful candidate for Legislature in 2012. His committee had not been dissolved. As such, his committee was subject to all reporting requirements. An annual statement was due January 31, 2014 and filed on March 21, 2014 resulting in late filing fees of \$750. It was noted that there were no reported receipts or expenditures. However, relief was denied as there had been two previous late filing fees. The first late fee had been reduced to \$0 and the second one had been reduced to \$25. The committee did not qualify for relief because the \$25 late fee had been incurred during the two years prior to the date the annual campaign statement was due. Executive Director Daley asked the Commission to further review the additional materiel before them.

Discussion followed on the issue of good cause shown.

Motion by Brostrom, second by Mumm, to grant the request for relief for good cause shown due to medical reasons for Friends of Ron Harnett for Legislature, Ron Harnett - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, and Schulz voted yes. Motion carried (8-0-0).

Request for Modification of Filing Requirements (Statement of Financial Interests) – Mark Herman, Nebraska Department of Environmental Quality - Executive Director Daley indicated that this is request by Mark Herman who is a Federal Aid Administrator II for the Nebraska Department of Environmental Quality. He is requesting that the Commission modify the filing requirements of the NPADA such that he would not be required to file an annual Statement of Financial Interests. The Executive Director explained that under Nebraska Statute §49-1493 individuals holding specific public positions are required to file

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Statements of Financial Interests. The same statute provides that the Commission may, by rule and regulation, require others to file if the duties of their position meet the criteria found in the statute. Current Commission Rule 2 requires that those holding the position of Federal Aid Administrator II at the Department of Environmental Quality file. Executive Director Daley further explained that the Commission may modify the filing requirements of the NPADA for good cause shown.

Mark Herman, of the Nebraska Department of Environmental Quality appeared and gave a presentation. He explained that the duties of his position no longer fit the statutory criteria for filing. Herman referred to a letter from Thomas Lamberson, Deputy Director of the Department of Environmental Quality, agreeing with his position.

Discussion followed.

Motion by Gale, second by Mumm, to waive the requirement file a Statement of Financial Interests by those holding the position of Federal Aid Administrator II position for the Department of Environmental Quality due to the good cause shown - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Mumm, and Schulz voted yes. Commissioner Hosford voted no. Commissioner Loudon abstained. Motion carried (6-1-1).

Break 10:40 a.m. – 10:50 a.m.

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley announced that Commissioner Loudon's appointment was confirmed by the Legislature in March.

The Executive Director reported that Commissioner Hosford's term on the Commission would end on June 30th. Commissioner Hosford's successor will be appointed by the Governor from a list supplied by the Legislature.

Executive Director next reported on the budget and stated that at 9 months into the current budget year approximately 33% has been expended. Mr. Daley stated there were two reasons for the low expenditure of budget. The first is that the agency has a position that has not been filled, and that the Legislature had appropriated \$600,000 to develop an electronic filing system. None of the money has yet to be spent. He noted as to the CFLA Fund, all the money has been distributed and Deputy Director Hinman has taken the necessary steps to deactivate the fund.

The Executive Director further reported on the Agency's electronic filing project. the Legislature appropriated funds so that the NADC can develop an updated and more comprehensive electronic filing program that will be user friendly and

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accommodate all reports required by the NPADA. The current system only provides for certain types of reports. To this end the Commission has secured the services of Social Eclipse LLC, which is owned by Brian Hess. Mr. Hess is a former employee of the State of Missouri and State of Georgia, having developed both of their campaign finance filing systems. In an agreement with the Commission Mr. Hess is to assist the Commission in developing specifications for the request for proposals process. He will also participate in the scoring of proposals received. The goal is to have the system up and running by the 2016 elections.

Executive Director Daley next reported that 1st primary campaign statements were due April 14th. These filings are available for review on the Commission website. The 2nd primary campaign statements are due May 5th and as they are filed they will be made available on the website as well.

General Counsel Danberg indicated that the matters of Rolland Skinner (10-15) and Les Tlustos (10-16) are still pending before the Nebraska Supreme Court. The Commission is awaiting its decision.

Legislative Update (Review of legislative action during the 2014 session) –
Executive Director Daley next gave the legislative update.

LB 719 – Is a bill by Senator Crawford which adds provisions to the Administrative Procedures Act and to the rule making process. The NADC will be incorporating these provisions into its own practices. The bill was passed by the Legislature and signed by the Governor.

LB 946 – This is a bill introduced by Senator Murante was amended to change triggering thresholds for reporting campaign contributions. Mr. Daley offered the example that prior to January 1, 2014 a candidate that received more than \$250 from a source was required to report that contribution. In 2013 LB 79 changed the trigger amount to \$250 or more. LB 946 changes it back to more than \$250. The bill was passed and the new reporting thresholds take effect on January 1, 2015.

LB 676 – A bill by Senator Chambers. It would require committees to submit a bank statement annually, so auditors could reconcile the balance shown on campaign statements to the balance shown on the bank statement. It also prohibits candidate committees from making loans and increased the maximum civil penalty to \$5,000. The bill was held in committee and died at the end of the session.

LB 747 – Introduced by Senator Avery, it required that the cost of “issue ads” or electioneering communications be reported. This bill was held in Committee where it died.

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Discussion followed.

Discussion of process for election of officers at June meeting – Chairman Hosford stated that since his term with the Commission would be over in June, he would prepare a slate of candidates for the June meeting.

Discussion for process of evaluation of Executive Director at June meeting – Chairman Hosford asked Commissioner Brostrom to once again compile and administer the instrument of evaluation of Executive Director. Commissioner Brostrom agreed.

Discussion followed.

Report of Conflicts Committee – Commissioner Grant stated there was nothing to report.

Discussion followed.

Report of Executive Committee – Commissioner Hosford indicated that there are no issues to report at this time.

Closed Session - Motion by Brostrom, second by Grant, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, and Schulz voted yes. Motion carried (8-0-0).

The NADC went into Closed Session at 11:15 a.m.

The NADC returned to Open Session at 12:08 p.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated that there were none.

Adjournment – Motion by Mumm, second by Schulz, that the NADC adjourn. Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, and Schulz voted yes. Motion carried (8-0-0).

Chairman Hosford declared the meeting adjourned at 12:10 p.m.