

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

**Friday, December 2, 2016**

**State Capitol, Room 1525**

**Lincoln, Nebraska**

**Call to Order** – Chairman Schulz called the meeting to order at 9:00 a.m. and announced the location in the meeting room of a copy of the Public Meetings Law.

Roll Call –

Sean Conway – Excused  
Jeffery Davis - Present  
Matthew Enenbach – Present  
John Gale – Present  
Douglas Hegarty - Present  
Andrew Loudon - Present  
Jeffery Peetz - Present  
Timothy Schulz - Present  
James Ziebarth – Excused

**Approval of the Open Session Minutes of the October 21, 2016 Meeting** – Chairman Schulz referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

**Motion by Gale, second by Enenbach, that the Open Session Minutes as of the October 21, 2016 meeting be approved as presented** - Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty, Loudon, and Peetz, voted yes. Commissioners Schulz abstained. Motion carried (6-0-1).

**Report on late filing fees and requests for relief:** The Executive Director indicated that there were no requests for relief.

**Executive Director's Report (includes personnel activity, budget status, budget process and litigation status)** – Executive Director Daley indicated that in the month of November he had participated at the Senators Elect Orientation. This provided the opportunity to brief the new senators on topics that included Conflict of Interests, Statements of Financial Interests, gifts and the appropriate use of campaign funds and public resources.

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The Executive Director indicated that the Commission is now 4 months into the current budget year and has expended approximately 16% of its budget.

Executive Director Daley indicated that the Electronic Filing Project continues to make progress. The goal is to have electronic filing available and ready for use for the 2018 elections.

The Executive Director indicated that Lobbyist and Principal 3rd Quarterly Reports disclosing receipts and expenditures were due on October 31st. Those reports that have been filed are available to the public for review on the Commission website.

Executive Director Daley indicated that the campaign statements for the 2<sup>nd</sup> General Election are due October 31<sup>st</sup>. Those statements that have been filed are available for review on the Commission website. The Post-General Election Campaign Statements are due on January 17<sup>th</sup>, 2017.

The Executive Director indicated that in the matter of litigation he would defer to General Counsel Danberg.

The General Counsel indicated that in the Michael Meister case, a hearing was held before Judge Merritt, in Lancaster County District Court. Mr. Danberg noted that the hearing was before District Court because the Attorney General and Commission do not have the authority to compromise certain late filing fees. The Court and Judge Merritt approved the Settlement Agreement in the amount of \$1,000. The Order has been issued and Mr. Meister has already made the 1<sup>st</sup> of six installment payments.

**2017 Legislative Session:**

- a) Discussion of possible legislation**
- b) Consideration and action on process for addressing legislative issues**

The Executive Director indicated that the Legislative Session begins on January 4<sup>th</sup> and this will be the first session for 17 of the 49 Senators. Mr. Daley noted that all of the Legislative leadership positions are up for election, so there will be a new Speaker of the Legislature and many new committee chairs, adding that there also will be no carryover legislation. It was also explained that all new legislation has to be introduced within the first ten legislative days of the session. The Director indicated that the Commission would like to strengthen ethics provisions of the NPADA. Noting that in the area of civil penalties there is a bill that will increase the civil penalty the Commission would be able to assess from \$2,000 to \$10,000. A second area of discussion is issue advertising. This is a type of advertising that mentions the name of the candidate or public official. But, does not mention an election, or does not suggest a vote of for or against. What

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it does is raise an issue about the candidate either favorable or negative. Usually it is the latter. These types of advertising intend to influence an election but do not fall within the jurisdiction of the Commission. Legislation would be needed to address these ads.

Discussion followed.

Executive Director Daley indicated that the next matter regards the method by which the Commission handles matters during Legislative Session that may arise that would require a quick response from the Commission. Mr. Daley explained that in the past the Commission had authorized the staff to seek direction from the Executive Committee and report any action at the next Commission meeting. He further explained that Senators sometimes ask for assistance from the Commission staff in the drafting of legislation. It was noted that in the past the Commission has authorized the staff to provide technical assistance upon request even if the Commission does not support the bill. The theory is that well drafted legislation becoming law is better than poorly drafted legislation becoming law.

Discussion followed.

**Motion by Gale, second by Peetz, that the Commission authorize the Executive Committee to consult with staff as needed to give direction from the Commission on Legislative issues and that the staff and Executive Committee then report back to the full Commission at the next meeting on such matters and further that the staff and Commission be authorized to assist legislators or legislative staff on drafting of legislation or amendments whether or not it is a matter endorsed by the Commission** – Roll Call Vote: Commissioners Davis Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (7-0-0).

**Report of Conflicts Committee** – Executive Director Daley indicated that at the last meeting there had been discussion of some unhappiness concerning Cherry County Commissioner Mr. Van Winkle and a Commission Staff Opinion. Mr. Van Winkle had asked the full Commission to review it, and the Commission took the position to support the staff opinion. Mr. Van Winkle also asked the Commission to provide supplementary opinion as to an issue Mr. Daley indicated that this was done.

**Report of Executive Committee** – Chairman Schulz indicated that there are no issues to report at this time.

**Closed Session - Motion by Loudon, second by Enenbach, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA** - Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (7-0-0).

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The NADC went into Closed Session at 9:20 a.m.

The NADC returned to Open Session at 9:40 a.m.

**Action on or Announcement of Closed Session matters** - Executive Director Daley deferred to General Counsel Danberg.

General Counsel Danberg indicated that in 2007 the Commission had obtained an judgement against Pat Shannon for 8 violations of the NPADA. The Commission at that time imposed a Civil Penalty in the amount of \$16,000. Attempts were made to collect by filing an action in Sarpy County Court, this effort was to last 3 ½ years and ended in a deposition where Mr. Shannon stated that he had no funds to pay the judgement. Mr. Danberg indicated that Mr. Shannon has now been elected to the Bellevue City Council. This is a salaried position. Danberg explained that the judgement had gone dormant, so now it would wise to revive the judgement. He indicated that he filed a motion for hearing on December 19th in Sarpy County District Court.

**Adjournment – Motion by Enenbach, second by Peetz, that the NADC adjourn.** Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (7-0-0).

Chairman Schulz declared the meeting adjourned at 9:46 a.m.