

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

Friday, June 3, 2016

State Capitol, Room 1507

Lincoln, Nebraska

Call to Order – Chairman Schulz called the meeting to order at 9:02 a.m. and announced the location in the meeting room of a copy of the Public Meetings Law.

Roll Call –

Sean Conway – Present
Jeffery Davis - Present
Matthew Enenbach – Present
John Gale – Present
Andrew Loudon - Present
Jeffery Peetz - Present
Timothy Schulz - Present
Brad von Gillern – Present
James Ziebarth – Excused for late arrival

Approval of the Open Session Minutes of the April 8, 2016 Meeting – Chairman Schulz referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Conway, second by Peetz, that the Open Session Minutes as of the April 8, 2016 meeting be approved as presented - Roll Call Vote: Commissioners Conway, Davis, Enenbach, Loudon, Peetz, Schulz and von Gillern voted yes. Commissioner Gale abstained. Motion carried (7-0-1).

Report on late filing fees and requests for relief: Danter Dental Lab, Inc. Dan Kreitman - The Executive Director indicated that Danter Dental Labs had made a series of campaign contributions in 2014. These campaign contributions were made in the months of June, July, August, and included November and December. It was noted that Danter Dental Labs did not file a B-7 Report of Political Campaign Contributions of a Corporation for any of these contributions and late filing fees were assessed totaling \$3,750. Danter Labs requested relief

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from these late filing fees and the Executive Director was able to grant relief to the 1st contribution, from \$750 to zero dollars.

Executive Director Daley stated to let the record show that Commissioner Ziebarth was now present.

Mr. Daley, continued to explain that the 2nd contribution of \$5,000 did not meet the statutory criteria of 'receipts or expenditures of \$5,000 or less' and he was unable to grant relief. This relief request denial further caused the subsequent contributions to fail to meet the statutory criteria of 'that the filer had not been required to pay late filing fees for two years prior to the time the filing was due'.

Discussion followed.

Motion by von Gillern, second by Gale, to deny the request for relief and move towards collection of late filing fees in the amount of \$3,000 - Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Loudon, Peetz, Schulz, von Gillern and Ziebarth voted yes. Motion carried (9-0-0).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – The Executive Director announced that Commissioners Peetz, Ziebarth, Davis and Haggarty have all had their confirmation hearings by the 2016 Legislative Session before the Government Military & Veterans Affairs Committee. Each Commission appointment has been confirmed by the whole Legislature.

Executive Director Daley indicated that the agency had expended approximately 45% of its appropriation for the current fiscal year which ends June 30th. It was pointed out that the budget status report was a little deceiving as some big expenditure's had yet to go out, most notably the Electronic Filing Project. Mr. Daley noted that the agency to still be in very, very good shape.

The Executive Director reported that work continues on the electronic filing project and that staff auditor David Hunter has been testing and fine tuning the system. Mr. Daley further reported that the estimated launch date that the system is to be up and running, will be sometime in August. Noting however, the system will not be available to the public until the beginning of the coming year.

The Executive Director reported that Lobbyist and Principal Reports that have been filed are available for review on the Commission website.

Executive Director Daley indicated that campaign statements that have been filed are available for review on the Commission website. Primary election campaign statements are due June 20th.

The Executive Director indicated that there is one matter in litigation and he would defer to General Counsel Danberg

General Counsel reported that in regards to the Michael Meister case. He indicated that there had been two instances where his law firm had made contributions and had failed to file the required reports. This resulted in late filing fees of \$1,500. Mr. Meister had appeared before the Commission to ask for relief and failed. Mr. Danberg indicated that the Commission had filed a lawsuit in Lancaster County District Court to collect these late filing fees, but that Mr. Meister had failed to contact the Commission. It was after further checking with his law firm it was learned that Mr. Meister had a medical condition that required double by-pass surgery and he would not be back until the end of July. The Commission has temporarily suspended this case.

Discussion of upcoming budget and of Commission financial procedures – Executive Director Daley indicated that it is that time once again when the Agency will have to prepare a new budget. Mr. Daley pointed out that since there are now a number of new Commissioners since the last budget cycle, he would explain on how the budget and its procedure all work. The biennium budget is a 2 year cycle and sometime before the end of the month all state agencies will be issued their budget instructions. Deputy Director Hinman will put together the agency budget and the Commission will have the opportunity to review it at the August 5th meeting. At that time the Commission can approve or direct any changes to be made. In the event there are any changes to be made, that budget would then be presented at the September 9th meeting for approval. The agency is required to submit the budget by September 15th. All of these agency budget proposals are then submitted to the Legislature for the 2017 Legislative Session. Mr. Daley indicated that the budget is a continuation budget. That is essentially asking for the same money with the increases that are built into the system, with the exception of the electronic filing project and the position of an IT help desk person. This position is in the current budget but has not yet been hired. There is an ongoing analysis of this position, and currently it is the only change from the last budget.

Discussion followed.

Legislative Update - The Executive Director next reported on the Legislative update.

LB 400 - This bill is the only bill that specifically involved the NADC that passed. It would have changed the date for filing Statements of Financial Interests Form C-1 from April 1st to March 1st and would have changed the place of filing to only the Accountability and Disclosure Commission and no longer at the local election commissioner or the Secretary of State Elections officer

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All of the other bills that related to the NPADA either died on the floor or never made it out of committee. This included LB 166 and LB 867.

LB 166 – Is a bill that would have required political committees except political party committee's to provide a statement from their bank or financial institution which would show the balance of account on an annual basis.

LB 867 – This bill would have amended the Administrative Procedures Act a number of ways. The APA is the body of state law which governs the rule and regulation process which state agencies follow, and the process by which contested cases are handled. Mr. Daley explained that LB 867 clarified the distinctions between rules and regulations from advisory guidance documents.

Consideration and action: evaluation of Executive Director – Chairman Schulz indicated that he had previously submitted the Executive Director's evaluation to the Commissioners for their feedback and had compiled the information and submitted them to Mr. Daley. Chairman Schulz asked if there were any further comments related to the evaluation.

Jack Gould, representing Common Cause of Nebraska expressed his thanks to the Commission and appreciation for the NADC Staff and Executive Director Daley.

Discussion followed.

Motion by von Gillern, second by Peetz, to approve the evaluation of the Executive Director – Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Loudon, Peetz, Schulz, von Gillern and Ziebarth voted yes. Motion carried (9-0-0).

Discussion followed. The consensus was to proceed in the manner suggested

Motion by Enenbach, second by Conway, to approve a salary increase of 2.4% for the Executive Director – Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Loudon, Peetz, Schulz, von Gillern and Ziebarth voted yes. Motion carried (9-0-0).

Report of Conflicts Committee – Chairman Schulz indicated that there were no challenges to report.

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

Closed Session - Motion by Conway, second by Enenbach, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale,

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Loudon, Peetz, and Schulz, von Gillern and Ziebarth voted yes. Motion carried (9-0-0).

The NADC went into Closed Session at 9:46 a.m.

The NADC returned to Open Session at 10:50 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated there were two matters from Closed Session to announce. The first matter case #16-05 John Lutz. The Commission approved a settlement agreement with six Commissioners concurring, three dissenting, and none abstaining. The Commission found a violation of the NPADA §49-14.103.01 with a civil penalty assessed of \$500. Mr. Daley further announced that in the matter of Senator Al Davis case #15-10 the Commission approved a settlement agreement with nine Commissioners concurring, none dissenting, and none abstaining. The Commission found that Senator Davis in violation of the NPADA §49-14.99. A civil penalty of \$500 was assessed.

Election of Officers – Chairman Schulz indicated that Commissioner von Gillern had prepared a slate of officers for the upcoming year. Mr. von Gillern proposed Commissioner Schulz, Commissioner Conway, and Commissioner Loudon as Chairman, Vice-Chairman and Secretary, respectively.

Motion by Enenbach, second by von Gillern, to approve and accept the slate of proposed officers – Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Loudon, Peetz, Schulz, von Gillern and Ziebarth voted yes. Motion carried (9-0-0).

Recognition of the service of Commissioner Brad von Gillern – Chairman Schulz was first to express his appreciation to Commissioner von Gillern for his service and his unique perspective as a non-lawyer.

Executive Director Daley stated how he hated the month of June, because it has always meant saying goodbye to one of their colleagues on the Commission. Mr. Daley noted that Commissioner von Gillern had been appointed by Governor Dave Heineman and began his term July 1, 2010. The Executive Director expressed his appreciation that Mr. von Gillern was the business guy, the bottom line guy, the 'what is plan B guy'. He noted that attorneys tend to agonize over the 'process' and Brad was "how do we get there from here?" By his thorough analysis, questions and insight, this made Commissioner von Gillern incredibly valuable to the Commission. Executive Director Daley thanked Commissioner von Gillern and presented him with an engraved clock as a token of esteem on behalf of the Commission.

Secretary of State John Gale expressed his gratitude to Brad von Gillern for his service to the state and to the public. He noted his strong public interest in ethics

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and good government. Stating that his sense of conviction set a very high standard and was like a whiff of ammonia when he took a position during discussion. Stating he was unlike a group of lawyers that could debate how many angels are on the head of a pin. Brad is someone with a profound sense of what is right and what is wrong. Secretary Gale presented Commissioner von Gillern with a Secretary of State Citation, and a medallion of the Great Seal of the State of Nebraska.

Commissioner von Gillern noted that he didn't prepare anything or a 'powerpoint' presentation. However, one word did come to mind, the word honor. He stated that it was an honor to serve with the Commission in a role that matters and as a representative of the people of the State of Nebraska. And that it was a terrific way to serve the people and that it truly had been an honor.

Adjournment – Motion by von Gillern, second by Conway, that the NADC adjourn. Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Loudon, Peetz, Schulz, von Gillern and Ziebarth voted yes. Motion carried (9-0-0).

Chairman Schulz declared the meeting adjourned at 11:02 a.m.