

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
Friday, August 5, 2016
State Capitol, Room 1524
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 – Excused
John Gale – Present
Douglas Hegarty - Present
Andrew Loudon - Excused
Jeffery Peetz - Present
Timothy Schulz - Present
James Ziebarth – Present

Introduction and welcome: new Commissioner Douglas Hegarty – Executive Director Daley introduced and welcomed new Commissioner Douglas Hegarty from Omaha. He was appointed by Governor Pete Ricketts. Commissioner Hegarty is currently a Senior Manager in Global Operations for PayPal. Mr. Hegarty also serves with the Floor Committee for the Aksarben Foundation, Offutt Advisory Council, the Behavioral Health Advisory Council for Catholic Charities and the Community Stewardship Council.

Executive Director Daley welcomed visiting former Commissioner Gary Tesar. Mr. Tesar had served on the Commission in the late 80's and early 90's.

Approval of the Open Session Minutes of the June 3, 2016 Meeting – Chairman Schulz referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Gale, second by Peetz, that the Open Session Minutes as of the June 3, 2016 meeting be approved as presented - Roll Call Vote: Commissioners Conway, Davis, Gale, Peetz, Schulz and Ziebarth voted yes. Commissioner Hegarty abstained. Motion carried (6-0-1).

Report on late filing fees and requests for relief: Pinnacle Bank - The Executive Director indicated that Pinnacle Bank had made a campaign contribution and was required to file a Report of Political Contribution of a Corporation (NADC Form B-7) due August 10, 2015 and filed June 22, 2016. Late filing fees of \$750 were assessed and the bank filed a request for relief from late filing fees. Pinnacle bank had taken the position that the report had been timely mailed. However, the Commission never received the report and it was noted that the original mailing was never returned to the bank. Mr. Daley indicated that the bank was not eligible for relief as Pinnacle had previously been granted relief and had paid late filing fees within the last two years of when the filing was due.

Discussion followed.

Motion by Gale, second by Conway, to retain the late filing fee of \$750 to Pinnacle Bank for failure to report a political contribution of a corporation in a timely manner - Roll Call Vote: Commissioners Conway, Davis, Gale, Hegarty, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).

Report on late filing fees and requests for relief: Melton Law Office – Executive Director Daley indicated that Melton Law Office had withdrawn its request for relief.

Report on late filing fees and requests for relief: Grand Island Area Economic Development Corporation – The Executive Director indicated that a report of a \$10,000 political contribution due on April 11, 2016 and received on May 16, 2016. A statutory late fee of \$750 was assessed. A request for relief from late filing fees was denied by the Executive Director based upon the fact that late filing fees had been paid by the filer in the prior two years and that expenditures were more than \$5,000.

Discussion followed.

Motion by Gale, second by Conway, that the late fee be reduced to the amount of \$250 to the Grand Island Area Economic Development Corporation - Roll Call Vote: Commissioners Conway, Davis, Gale, Hegarty, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).

Report on late filing fees and requests for relief: Credit Bureau Services – The Executive Director asked that this request for relief be withdrawn from the agenda. He explained that additional material from Credit Bureau Service had received this week. This has created some as to the facts. Mr. Daley stated the need to re-evaluate the material and bring the matter back to the Commission at the next meeting if needed.

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Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – The Executive Director indicated that because July is the first month of the fiscal year, and that the mailing was sent out before the end of July, the report does not include the usual status information for the current fiscal year. Mr. Daley referred the Commissioners to the compilation of the Commission's status as of June 30th, the end of the prior fiscal year.

The Executive Director reported that Lobbyist and Principal 2nd Quarterly Reports disclosing receipts and expenditures were due on August 1st. Those reports that have been filed are available to the public for review on the Commission website. Mr. Daley also noted that the Lobbyist and Principal 3rd Quarterly Reports are due on October 31st, 2016.

Executive Director Daley next reported on campaign finance activity, indicating that the statewide Primary election had been held on May 10th. The 1st, 2nd and Post Primary campaign statements were due on April 11, May 2nd and June 20th respectively. It was further announced that the 1st General Election campaign statements are due on October 11th. Campaign statements that have been filed are available for review on the Commission website.

Executive Director Daley indicated that in regards to the Michael Meister case, as previously reported. There has been no activity on this litigation since the last meeting. The case is currently pending Mr. Meister's recovery from surgery.

Discussion followed.

Consideration and action on proposed Commission budget for 2017/2019 biennium - Executive Director Daley explained that the State of Nebraska operates on a biennium cycle, which means the budget is for a 2 year period of time. Before the Commission is the proposed budget for the upcoming biennium that begins on July 1, 2017. The agency is required to submit the proposed budget to the Budget Division of the Department of Administrative Services by September 15, 2016. Mr. Daley described the budget as a continuation budget. That is there are no changes or increases other than the increases other than those mandated by the budget instructions.

Daley described the budget and appropriation process followed by the State. He also addressed the Personal Services Limitation (PSL) which is the amount the agency is permitted to spend on personnel costs. He stated that typically personnel costs account for approximately 85% of the budget. The Commission's current sources of funding are the General Fund and the NADC Cash Fund. The Cash fund primarily consists of late filing fees, civil penalties and the Commission's share of lobbyist registration fees. The registration fees, by statute, are allocated between the NADC and the Clerk of the Legislature. Daley noted that the Cash Fund currently has a large balance. This occurred as the

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result of the elimination of the Campaign Finance Limitation Act. Money in the amount of \$528,000 was transferred from the CFLA Cash Fund to the NADC Cash Fund for the purpose of developing a comprehensive electronic filing system. Mr. Daley also indicated that each agency is required to submit a modification budget or backup budget in which it must assume an 8% decrease funding.

The Executive Director extended his appreciation to Deputy Director Hinman for his effort and putting together the agency budget.

Discussion followed on aspects of the proposed budget including the proposed modification section.

Motion by Davis, second by Peetz, that the Commission approve the budget with a modification to the narrative adding as one of the Commission's goals the prompt and professional enforcement of the act – Roll Call Vote: Commissioners Conway, Davis, Gale, Hegarty, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).

Consideration and action on:

- a) Resolution #16-01 – Modification of filing requirements for 2017 Lincoln elections
- b) Resolution #16-02 – Modification of filing requirements for 2017 Omaha elections

Executive Director Daley indicated campaign statement filing schedule in the Accountability and Disclosure Act contemplates a May Primary Election and a November General Election. However, the cities of Lincoln and Omaha are both charter cities and can set their own election dates. The Primary and General Elections in Omaha and Lincoln are four or five weeks apart. Strict adherence to the statute results in a overlapping of reporting periods. Mr. Daley indicated that the Commission may use its authority to modify the filing requirements to create a more logical reporting schedule and eliminate confusion.

Discussion followed.

Motion by Conway, second by Ziebarth, to modify the filing requirements for the 2017 Lincoln elections as proposed in Resolution #16-01 - Roll Call Vote: Commissioners Conway, Davis, Gale, Hegarty, Peetz, Schulz, and Ziebarth voted yes. Motion carried (7-0-0).

Motion by Peetz, second by Conway, to modify the filing requirements for the 2017 Omaha elections as proposed in Resolution #16-02 – Roll Call Vote: Commissioners Conway, Davis, Gale, Hegarty, Peetz, Schulz, and Ziebarth voted yes. Motion carried (7-0-0).

Consideration and action to apply for reclassification of staff position – Executive Director Daley indicated that currently there are two auditors, one of whom that has taken on additional duties including working on the electronic filing project and other innovations in the office. Mr. Daley pointed out that this additional work is well beyond his job classification and asked the Commission to authorize the investigation to reclassify the Auditor I position to a Senior Auditor position.

Motion by Gale, second by Peetz, to authorize the Executive Director to request the reclassification of the Auditor I position to Senior Auditor position – Roll Call Vote: Commissioners Conway, Davis, Gale, Hegarty, Peetz, Schulz, and Ziebarth voted yes. Motion carried (7-0-0).

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

The NADC went into Closed Session at 10:05 a.m.

The NADC returned to Open Session at 11:08 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley announced that in Closed Session the Commission approved a settlement agreement in case #16-01, Executive Director v. Bill Kintner. The Commission approved a settlement agreement by which it found a violation of the NPADA §49-14.101.01(2), use of public resources under public official's official care and control other than accordance with the law. The settlement agreement was approved with seven Commissioners concurring, none dissenting, and none abstaining. A civil penalty of \$1,000 was assessed.

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

Chairman Schulz declared the meeting adjourned at 11:15 a.m.