

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

Friday, December 4, 2015

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 – Present
Matthew Enenbach - Present
John Gale – Excused
Andrew Loudon - Present
Jeffrey Peetz - Excused
Timothy Schulz - Present
Brad von Gillern – Present
James Ziebarth – Excused

Approval of the Open Session Minutes of the October 16, 2015 Meeting – Chairman Schulz referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Conway, second by Enenbach, that the Open Session Minutes for the October 16, 2015 meeting be approved as presented - Roll Call Vote: Commissioners Conway, Enenbach, Loudon, Schulz and von Gillern voted yes. Motion carried (5-0-0).

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 referred the Commissioners to their packets for information on the current budget status.

The Executive Director reported that the Commission's electronic filing project is moving along and that there are at least two teleconference meetings a week with the provider Quest. Mr. Daley also noted that the electronic project was a

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little behind schedule, but that it was due to the thoroughness of the work by the agency staff in insuring that the Business Requirement Document is correct.

Executive Director Daley indicated that pending litigation is a separate agenda item to be taken up later in the meeting

Discussion followed.

Discussion re: Legislative Update and Commission legislative process –

The Executive Director reported that there are two bills of interest to the Commission. Both bills were introduced during the 2015 Legislative Session and carry over to the 2016 Legislative Session.

LB 166 - This is a bill by Senator Crawford drafted with assistance from the Commission staff. It requires political committees except political party committees to annually submit a bank statement or other statement from the financial institution which shows the balance of the committee's account as of December 31st. This would allow the Commission staff to reconcile on an annual basis any difference between the cash balance shown by the campaign statement and the bank balance. Furthermore, this bill would clarify that a candidate committee may not make loans. It would increase maximum civil penalties to \$5,000 from the current \$2,000 and permit the Commission to order restitution in cases where it was appropriate.

LB 400 – is a bill by Senator Smith and would change the filing date for Statements of Financial Interests (Form C-1) from April 1st to March 1st.

Mr. Daley explained that during legislative session matters may arise that require a quick response from the Commission. Daley stated that in the past the Commission had authorized the staff to seek guidance from the Executive Committee and report any action at the next Commission. He further explained that Senators sometimes seek the assistance of Commission staff in the drafting of legislation relating to the Commission. In the past the Commission has authorized the staff to assist upon request even if the Commission does not ultimately support the bill. The theory is that well drafted legislation becoming law is better poorly drafted legislation becoming law.

Discussion followed.

Motion by Enenbach, second by Loudon, authorizing the staff to consult with the Executive Committee if it needs direction for the Commission on legislative issues and that the staff and authorizing the staff to provide technical assistance with legislation even if the proposal is not supported by the Commission - Roll Call Vote: Commissioners Conway, Enenbach, Loudon, Schulz and von Gillern voted yes. Motion carried (5-0-0).

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Discussion followed.

Report of Preliminary Investigation; Fred Conley v. Scott Japp (14-01) – General Counsel Danberg reported that Fred Conley v. Scott Japp (14-01) is a public matter as requested by Scott Japp at the commencement of the investigation. Mr. Danberg explained that during the course of investigation the respondent asserted an attorney-client privilege with respect to documents provided to the Commission pursuant to Court order. He noted that there is currently a motion pending before the District Court of Lancaster County filed by Mr. Japp asking that the documents be kept confidential. As the result of this pending motion, part of the presentation will be made in open session. The confidential documents will be discussed in closed session. The general discussion and any action by the Commission will be in open session.

General Counsel Danberg indicated that this case began early in 2014. Mr. Japp is a Board Member of the Papio-Missouri River NRD. He had written a letter to owners of land that was in the path of a dam which was to be constructed by the NRD. Mr. Japp opposed the dam. The letter sent on behalf of an organization known as Canudigit stated he wanted to buy top soil from the landowners. It appeared to be Mr. Japp's goal to make a profit from the sale of this top soil. Mr. Danberg pointed out that in the letter dated November 25th 2013 does not use Scott Japp's title or say that he was acting on behalf of the NRD Board. It was also noted that the NRD Board stated that Mr. Japp did not act on behalf of the NRD.

Discussion followed.

Motion by Loudon, second by Conway, that the NADC go into closed session at 9:16 a.m. in the matter of case 14-01 to discuss investigative material which is the subject of litigation and that the discussion in closed session shall be for the purpose of avoiding needless injury to the reputation of individuals and discussing investigative material, the confidentiality of which is subject to current litigation before the District Court of Lancaster County – Roll Call Vote: Commissioners Conway, Enenbach, Loudon, Schulz and von Gillern voted yes. Motion carried (5-0-0).

The NADC went into Closed Session at 9:16 a.m.

The NADC returned to Open Session 9:25 a.m. Discussion followed.

Motion by Conway, second by von Gillern, that the Commission find no probable cause to believe that a violation has occurred in case 14-01 – Roll Call Vote: Commissioners Conway, Enenbach, Loudon, Schulz and von Gillern voted yes. Motion carried (5-0-0).

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Report of Conflicts Committee – Commissioner von Gillern indicated that there were no challenges to report.

Mr. von Gillern asked the Executive Director to comment on the conflict of interest filing by Charlie Janssen, Auditor of Public Accounts. Mr. Janssen as State Auditor reviews the financial books and records of all state agencies. He is also a major shareholder and CEO of Ready Tech-Go or RTG. Mr. Daley reported that RTG offers temporary medical healthcare personnel services by contract and has several contracts with Nebraska Department of Health & Human Services. In a letter dated October 23, 2015 the Commission advised Mr. Janssen of provisions of the NPADA and provided guidance as to how comply with the act. The opinion also advised that he secure advice as to the application of the Federal Government Auditing Standards so as to insure compliance.

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

Closed Session - Motion by Conway, second by von Gillern, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Conway, Enenbach, Loudon, Schulz and von Gillern voted yes. Motion carried (5-0-0).

The NADC went into Closed Session at 9:30 a.m.

The NADC returned to Open Session at 10:53 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated in the matter of John Seiler case #15-07 the Commission approved a settlement agreement with five Commissioners concurring, none dissenting, and none abstaining. The Commission found a violation of §49-1459(1)(c) with no civil penalty and acknowledging that \$750 in late filing fees were assessed by operation of law. Mr. Daley further announced that in the matter of William Julien case #15-20 the Commission approved a settlement agreement with five Commissioners concurring, none dissenting, and none abstaining. The Commission found a violation of §49-1493. A civil penalty was not assessed.

Adjournment – Motion by Conway, second by Enenbach, that the NADC adjourn. Roll Call Vote: Commissioners Conway, Enenbach, Loudon, Schulz and von Gillern voted yes. Motion carried (5-0-0).

Chairman Schulz declared the meeting adjourned at 10:54 a.m.