

**OPEN SESSION**  
**MINUTES OF THE MEETING OF THE**  
**NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION**  
**Friday, September 8, 2017**  
**State Capitol, Room 1525**  
**Lincoln, Nebraska**

**Call to Order** – Chairman Enenbach called the meeting to order at 9:06 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 - Excused  
Jeffery Peetz – Present  
James Ziebarth – Excused

**Approval of the Open Session Minutes of the June 9, 2017 Meeting** – Chairman Enenbach referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

**Motion by Peetz, second by Gale that the Open Session Minutes as of the June 9, 2017 meeting be approved as presented** - Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty, and Peetz voted yes. Motion carried (5-0-0).

**Report on late filing fees and requests for relief: Nebraska Democratic Party; Ted Kessler, Treasurer** - Executive Director Daley indicated that the Nebraska Democratic Party has requested relief from late fees assessed in connection with three reports of late contribution that were not timely filed. Late fees in the total amount of \$4,750 were assessed by operation of law. Daley stated that he had denied the request for relief submitted by the NDP based upon the fact it did not meet the criteria §49-1463.01. Ted Kessler, the Treasurer for the Nebraska Democratic Party, appeared and gave a presentation. He requested that the Commission grant relief under the good cause shown

provision in that the circumstances surrounding the transactions were unique and the obligation to file was not apparent.

Discussion followed.

**Motion by Gale, second by Peetz, that the Commission grant relief by finding good cause shown in that the circumstances surrounding the transactions disclose that the filing requirement and would not have been apparent to the filer with regard to the two transfers from the Nebraska Democratic Party Federal Committee to the Nebraska Democratic Party State Committee, but that the late fee assessed as to the third contribution be denied – Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty and Peetz voted yes. Motion carried (5-0-0).**

**Consideration and action on proposed Advisory Opinion #203 requested by James Gessford, Legal Counsel to Lincoln Public Schools relating to conflicts of interest** – General Counsel Danberg indicated that this is a proposed advisory opinion based upon a request from James Gessford, legal counsel to the Lincoln Public Schools. General Counsel Danberg referred the Commission members to their packets for the proposed Advisory Opinion #203. Danberg indicated that there are two questions.

- 1) Can a School Board member vote on reimbursement of her or his own expenses without violating the conflict provisions of §49-1499.03(2)(a)?
- 2) Can a School Board member who is an officer of the Nebraska Association of School Boards vote on approving payments to the Association?

The General Counsel indicated that the answer to both of these questions is no. He stated that §49.1499.03(2)(a) states “...any person holding an elective office of a school district who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, or a business with which he or she is associated, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict.” Mr. Danberg noted the person should prepare a written statement describing the matter and potential conflict. The second is to deliver a copy of the statement to the school district for public record. And lastly, abstain from participating and voting on the matter in which the person holding elective office has a conflict of interests.

Chairman Enenbach asked if there were any member of the public that wished to testify and address the Commission as to the proposed advisory opinion.

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James Gessford, attorney with Perry, Guthery, Haase & Gessford Law Firm and legal counsel for the Lincoln Public Schools, addressed the Commission concerning Advisory Opinion #203.

Discussion followed.

Dave Jarecke, attorney with Jarecke Law Firm and General Counsel for the Nebraska Rural Electric Association, addressed the Commission as to Advisory Opinion #203.

Lynn Rex, Executive Director of the League of Nebraska Municipalities addressed the Commission as to Advisory Opinion #203.

Discussion followed.

**Motion by Peetz, second by Hegarty, to adopt proposed Advisory Opinion #203** – Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty and Peetz voted yes. Motion carried (5-0-0).

**Executive Director's Report (includes personnel activity, budget status, budget process and litigation status)** – Executive Director Daley indicated that Commissioner Schulz's term expired on June 30<sup>th</sup>. Mr. Schulz's successor will be selected by the Secretary of State John Gale. Mr. Daley stated that he had been advised by Commissioner Ziebarth that he will be submitting his resignation from the Commission, citing a change of situation. His successor will be named by the Governor.

The Executive Director indicated that two months into the budget year the agency has expended approximately 21% of the Commissions budget. Mr. Daley stated that this is an artificially high number. He explained that at the beginning of the fiscal year there are a number of billings that are sent to the Commission from other agencies. These agencies typically front load the payment for their services.

Executive Director Daley reported on the agency's pending move out of the Capitol as a part of the heating and air-conditioning project. Mr. Daley noted that at the last meeting he reported that the move date was November 1<sup>st</sup>. Since that time the move date has been changed to December 1<sup>st</sup>. The Commission will be moving to the 4<sup>th</sup> Floor of the Center Terrace Building at 1225 L Street.

Executive Director Daley reported on the Electronic Filing Project. The project as planned was not completed by the end of the fiscal year on June 30<sup>th</sup>. As a result, the Commission lost its authority to spend money appropriated for the project. Mr. Daley explained that the Commission had consulted with the State Accounting Division and the State Materiel Division. This resulted in an addendum to the current contract. By the terms of the addendum, the vendor will

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continue to work on the project and the Commission will seek a deficit appropriation. The deficit appropriation request will not seek additional funds. It will simply ask for authority to spend funds on hand in the current fiscal year.

Executive Director Daley announced that the Council on Governmental Ethics Laws (COGEL) Conference will be in Toronto Canada this year from December 3<sup>rd</sup> thru December 6<sup>th</sup>, 2017. The conference focuses on legislation and litigation in the areas of governmental ethics, campaign finance and lobbying. All of these are within the Commission. The Director indicated that the Commission usually sends two staff members. Mr. Daley stated that he will consider doing the same this year depending on the pending office move and budget considerations.

Discussion followed.

The Executive Director indicated that Lobbyist and Principal 2<sup>nd</sup> Quarterly Reports and Lobbyist Statements of Activity that have been filed are available to the public for review on the Commission website. Mr. Daley indicated that the General Campaign Statements for the Lincoln and Omaha City Elections that have been filed are also available for review on the website.

Discussion followed.

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

The General Counsel indicated that regarding litigation that there was nothing to report.

Discussion followed.

**Administrative Dissolution of Frank Brown for City Council** – Executive Director Daley indicated that this committee filed its last campaign statement in 2015. It showed no cash balance, a single contribution by the candidate of \$240 and one payable of \$280. There have been numerous attempts to contact Mr. Brown with no success, and appears not to be active. Mr. Brown last sought elective office in 2009. The Executive Director recommended to the Commission that the Frank Brown for City Council be administratively dissolved pursuant to §49-1453 and Commission Rule 4.

Discussion followed.

**Motion by Peetz, second by Enenbach, that the Commission approve the administrative dissolution of Frank Brown for City Council** - Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty and Peetz voted yes. Motion carried (5-0-0).

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**Report of Conflicts Committee** – Chairman Enenbach indicated that there was nothing to report.

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

**Closed Session - Motion by Peetz, 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 and Peetz voted yes. Motion carried (5-0-0).

The NADC went into Closed Session at 9:52 a.m.

The NADC returned to Open Session at 10:20 a.m.

**Action on or Announcement of Closed Session matters** - Executive Director Daley announced that in the matter of Tom Brewer case #17-28 the Commission approved a settlement agreement with five Commissioners concurring, none dissenting, and none abstaining. The Commission found there was a violation of the NPADA §49-1455 and assessed a civil penalty of \$500.

**Adjournment – Motion by Peetz, second by Enenbach, that the NADC adjourn.** Roll Call Vote: Commissioners Davis, Enenbach, Gale, Hegarty and Peetz voted yes. Motion carried (5-0-0).

Chairman Enenbach declared the meeting adjourned at 10:21 a.m.