

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
Friday, January 17, 2014
State Capitol, Room 1510
Lincoln, Nebraska

Call to Order – Chairman Hosford called the meeting to order at 9:05 a.m. and announced the location in the meeting room of a copy of the Public Meetings Law.

Roll Call –

Kevin Brostrom – Excused
Sean Conway - Present
John Gale – Present
Joseph Grant - Present
Paul Hosford – Present
Andrew Loudon - Excused
Jan Mumm - Present
Timothy Schulz - Present
Brad von Gillern - Present

Approval of the Open Session Minutes of the October 25, 2013 Meeting – Chairman Hosford referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Mumm, second by Grant, that the Open Session Minutes of the October 25, 2013 meeting be approved as presented - Roll Call Vote: Commissioners Conway, Grant, Mumm, Schulz and von Gillern voted yes. Commissioners Gale and Hosford abstained. Motion adopted (5-0-2).

Report on late filing fees and requests for relief: Douglas County Republican Party – Executive Director Daley indicated that the Douglas County Republican Party had withdrawn its request for relief. There were no other pending requests.

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley reported on the budget and stated that six months into the current budget year approximately 22% has been expended. Mr. Daley stated there were two reasons for the low

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expenditure of budget. The first is that the agency has had a vacancy that has been unfilled, and that the Legislature had appropriated money to a 'Help Desk' position for an electronic filing project that has yet to be realized.

The Executive Director reported that as of the end of December 31st 2013, there was approximately \$31,000 in the Campaign Finance Limitation Act Fund. Pursuant to LB 79 these residual funds have been transferred to the Secretary of State Election Administration Fund. Mr. Daley noted that Deputy Director Hinman had also taken the necessary steps to essentially dissolve the CFLA Fund.

Executive Director Daley next reported on year of testing the electronic lobbyist reporting system. The Executive Director stated he had successfully renewed his Registration as a Lobbyist, electronically filed a final report, Statement of Activity and his Termination Statement. Mr. Daley explained to the Commission that there had been a few quirks in the system. However, these were corrected and adjusted due to the efforts of the Clerk of the Legislature's Office and Legislative IT. The resulting system works well.

The Executive Director reported that the oral arguments in the Roland Skinner and Les Tlustos cases were held before the Nebraska Supreme Court last week. He stated that Neil Danberg, in his capacity as Special Assistant Attorney General, had made the oral argument on behalf of the Commission.

Mr. Danberg described the oral argument and stated his opinion that on balance the position of the Commission was enhanced by the oral argument.

Discussion followed.

Legislative Update including discussion of and action on Commission process re: Legislation – Executive Director Daley next gave the legislative update of bills.

LB 676 – This bill by Senator Chambers would require political committees to submit a bank statement once a year, prohibit candidate committees from making loans, increase civil penalties from \$2,000 to \$5,000 and authorize the Commission to order respondents make restitution. The Executive Director recommended that the Commission support LB 676.

LB 718 – This bill by Senator Crawford would affect the rule making process by requiring agencies to submit to the Secretary of State at certain times of the year their agendas for rule making. If a rule or issue is not on the agenda, it cannot be the subject of rulemaking. The Executive Director recommended a position of neutral.

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LB 719- This bill by Senator Crawford requires agencies to submit a summary of public comment received during the rulemaking process. The Executive Director recommended a position of neutral.

LB 720 – Under current law there is a process by which a member of the Legislature who believes an agency rule is either beyond the authority of the agency or is not consistent with legislative intent may file a complaint with the Legislative Council. The Council may demand an explanation from the agency. This bill by Senator Crawford expands the opportunity to file a complaint to a governing body, such as a city or village, to file a complaint. The Executive Director recommended a position of neutral to the Commission.

LB 747 – This bill by Senator Avery would require the costs associated with electioneering communications to be reported. An electioneering communication is a communication occurring in the 30 days immediately preceding the election and refers to a clearly identified candidate and is directed to that portion of the electorate eligible to vote in the election. Electioneering communications are often referred to as issue ads because they raise issues, but do not mention an election or urge a vote for or against a candidate. The Executive Director recommended that the Commission support LB 747.

LB 778 – This bill by Senator Chambers that would apply the interests in a contract provision and certain provisions of the Open Meetings Law and Public Records Law to a governing body of certain entities formed by a political subdivision. The Executive Director recommended a position of neutral.

LB 837 – This is a bill by the Legislative Audit and Performance Committee. It would require the Department of Administrative Services to perform pre-audit functions of state agencies with fewer than 7 full-time employees. The Executive Director recommended that the Commission monitor this bill.

LB 868 – A bill by Senator Karpisek that would prohibit law enforcement officers from using government issued uniforms and equipment in connection with off duty employment. The Executive Director recommended that the Commission monitor this bill.

LB 909 – This is a bill by Senator Kintner would require state agencies to file a list of all rules and regulations that have been in effect for more than 5 years. The Executive Director recommended that the Commission take a position of neutral.

LB 970 – This bill introduced by Senator Lautenbaugh would amend the Public Records Law by adding the sentence ‘All votes taken by public officials in the course of their public duties shall be considered a public record.’ The Executive Director recommended that the Commission monitor this bill.

Daley noted that there are two more days for bill introduction. Matters will arise in the Legislature that will require a Commission response. Daley asked that the staff be authorized to consult with the Executive Committee for direction when Commission input is needed as to legislative matters.

Discussion followed.

Motion by von Gillern, second by Mumm, to accept the recommendations of the Executive Director regarding legislative matters presented here today – Roll Call Vote: Commissioners Conway, Gale, Grant, Hosford, Mumm, Schulz, and von Gillern voted yes. Motion carried (7-0-0).

Motion by Conway, second by von Gillern, to authorize staff to consult the Executive Committee for direction – Roll Call Vote: Commissioners Conway, Gale, Grant, Hosford, Mumm, Schulz, and von Gillern voted yes. Motion carried (7-0-0).

Consideration and action on administrative dissolution of Medlock for Mayor – Executive Director Daley explained to the Commission that Mr. Medlock was a candidate for mayor in the 2013 Omaha primary election. Mr. Medlock had filed a campaign statement and would have been required to file one more statement. However, upon review it appeared he spent only a little more than \$600, all his own money. Medlock never reached the \$5,000 mark that would require the formation of a candidate committee. As such his filings were voluntary. There were numerous attempts to contact Mr. Medlock to dissolve his committee, with no success. Daley requested that the Commission administratively dissolve Medlock for Mayor pursuant to the provisions of Rule 4.

Motion by Grant, second by Gale, to administratively dissolve Medlock for Mayor - Roll Call Vote: Commissioners Conway, Gale, Grant, Hosford, Mumm, Schulz, and von Gillern voted yes. Motion carried (7-0-0).

Report on Conference of Council on Governmental Ethics Laws – Executive Director Daley reported that experts in campaign finance, governmental ethics and lobbying laws from across North America were present. He noted the value of having the opportunity to discuss issues with colleagues and of being able to draw upon the expertise and experience of others from different jurisdictions. The Executive Director noted by way of example how the constitutional challenge of the campaign finance act in Arizona helped the Commission when Nebraska's own CFLA was challenged. Mr. Daley reported that the best session at the conference was the Campaign Finance Update which reported on legislation and litigation in the campaign finance area. It seems that litigation has shifted into two areas. One is the challenge to legislative efforts to tighten up contribution requirements. The other is in the area of campaign finance disclosure. The Executive Director reported on a presentation given by IT "guru" Peter Doolan. He spoke of how we are moving away from the age of internet information to an

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age of internet things. How we do things may change significantly, citing new applications of technology including 3-D printers and bitcoins. Executive Director Daley thanked the Commission for the opportunity to attend the conference.

Discussion followed.

Report of Conflicts Committee – Commissioner von Gillern indicated that there were eight filings to report. Mr. von Gillern noted that six of the filings were in the normal course of business. Two of the filings related to a ballot question regarding housing in the City of Fremont.

Commissioner Grant indicated that a resident of Fremont by the name of Brad Yerger had taken exception to the staff opinions issued to two members of the Fremont City Council. The matter at issue was a vote by the city council to place on the ballot the repeal of a city ordinance which prohibits residential rentals to those who could not show they were lawfully in the United States. The opinions noted that the two city council members were both owners of residential real estate. However, the opinions took the position that the two did not have a conflict of interest because any financial benefit or detriment was speculative and not reasonably foreseeable.

Discussion followed.

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

Closed Session - Motion by von Gillern, second by Gale, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Conway, Gale, Grant, Hosford, Mumm, Schulz, and von Gillern voted yes. Motion carried (7-0-0).

The NADC went into Closed Session at 9:58 a.m.

The NADC returned to Open Session at 10:42 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated that there were none.

Adjournment – Motion by Grant, second by Conway, that the NADC adjourn. Roll Call Vote: Commissioners Conway, Gale, Grant, Hosford, Mumm, Schulz, and von Gillern voted yes. Motion carried (7-0-0).

Chairman Hosford declared the meeting adjourned at 10:45 a.m.