

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
Friday, January 16, 2015
State Capitol, Room 1510
Lincoln, Nebraska

Call to Order – Chairman Brostrom 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 –

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

Approval of the Open Session Minutes of the December 5, 2014 Meeting – Chairman Brostrom referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Gale, second by Hosford, that the Open Session Minutes of the December 5, 2014 meeting be approved as presented - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Hosford, and Schulz voted yes. Commissioner Grant abstained. Motion carried (5-0-1).

Report on Late Filing Fees, including requests for relief - Executive Director Daley indicated that there were no applications for relief.

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley indicated that Commissioner Hosford's term ended on June 30, 2014. However, Mr. Hosford holds over his office until a successor is appointed by the Governor. Mr. Daley explained that Governor Heineman had indicated he would not make an appointment, because it would occur after the Legislature had adjourned and any

Open Session Minutes
January 16, 2015

appointment made could be called back by Governor Ricketts. Mr. Daley indicated that he would be contacting the Chief of State to apprise him of the situation.

The Executive Director reported that he and Mr. Danberg attended the COGEL Conference in Pittsburgh in December. The report on the conference is a separate item on the agenda.

Executive Director Daley indicated that the Commission is now 6 months into the current budget year and has expended approximately 22% of its budget.

The Executive Director indicated that the request for proposals for electronic filing project has been submitted to the Department of Administrative Services Materiel Division for approval.

The Executive Director reported that the Post General Election Campaign Statements were due on January 13th. Those statements filed are now available for review on the Commission website.

The Executive Director reported that the 4th Quarter Lobbyist and Principal Reports disclosing receipts and expenditures are due on January 30th.

General Counsel Danberg reported on litigation.

Mr. Danberg reported on the Fred Conley v. R. Scott Japp (14-01) case. Danberg reminded the Commission that it had filed an action in the District Court and the Court had issued an order that required Mr. Japp to produce certain documents. Mr. Danberg stated that Mr. Japp and his attorney filed an appeal with the Court of Appeals. Danberg noted that that Mr. Japp and Mr. Engdahl filed a request for additional time for record preparation. Their brief is due on May 11th.

General Counsel Danberg indicated that the Rolland Skinner (10-15) and Les Tlustos (10-16) cases are currently before the District Court of Lincoln County. A conference call with the Judge and the parties is scheduled for January 26th. Mr. Danberg indicated that the purpose of the conference is to set briefing dates.

Legislative Update – Executive Director Daley next discussed the legislative bills that will affect the Commission.

LB 166 – This is a bill by Senator Crawford. The bill is essentially the same bill that Senator Chambers introduced in the 2014 Session with some minor changes. This bill would require all political committees, with the exception of political party committees, to submit an annual bank statement or other statement showing the committee's account balance December 31st. LB 166 would clarify, that candidate committees could not make loans. It would increase maximum civil penalty the Commission may impose from \$2,000 to \$5,000 per

Open Session Minutes
January 16, 2015

violation. It would permit the Commission to order restitution where appropriate. The Executive Director recommended that the Commission Support this bill.

Discussion followed.

LB 84 (Senator Davis) and LB 282 (Senator Baker) – Daley stated that both of these bills relate to public meetings. He noted that bills that involve public meetings and public records are often amended in the legislative process. The Executive Director recommended that the Commission to monitor these bills.

REQ 00717 – Daley stated that the provisions of this draft attempt to describe the activities which constitute campaigning for the purposes of the prohibition against the use of government resources for campaign purposes. Daley noted three problems with this draft. First, campaign activity is an activity which part of a constantly changing creative process. To describe specific activities which constitute campaigning is to create a definition which will become quickly dated. Second, the concept of the “purpose” of the activity is removed from the statute. Similar activity can have different purposes. Third, it pulls into the definition of campaigning, activity which the Commission would not now consider campaigning. The Executive Director recommended the Commission to oppose this draft if introduced as a bill.

Discussion followed.

REQ 00695 – Currently a candidate for certain offices are required to file a Statement of Financial Interests with the filing officer with whom he or she files to have his or her name appear on the ballot. The filing officer cannot accept the filing to appear on the ballot if the Statement of financial Interests is not also filed. The draft legislation requires the candidate to file the statement with the Commission (not the filing officer) within 5 days after March 1st. If it is not filed, the person’s name will not appear on the ballot. In addition, it changes the filing deadline for filing an annual Statement of Financial Interests from April 1st to March 1st.

Discussion followed.

Motion by Hosford, second by Grant, that the Commission authorize the Director and all staff to support LB 166 - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, and Schulz voted yes. Motion carried (6-0-0).

Motion by Grant, second by Conway, that the Commission to authorize the staff to monitor LB 84 and LB 282 – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, and Schulz voted yes. Motion carried (6-0-0).

Open Session Minutes
January 16, 2015

Motion by Grant, second by Hosford, that the Commission authorize the staff to oppose the concept found in this draft if it is introduced as a bill REQ 00717 – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, and Schulz voted yes. Motion carried (6-0-0).

Report on Conference of Council on Governmental Ethics Laws (COGEL) - Executive Director Daley referred the Commissioners to their copies of the COGEL Conference Reports that Mr. Danberg and Mr. Daley prepared for the Commission detailing the sessions that they attended.

Discussion followed.

Report of Conflicts Committee – Commissioner Conway indicated that there was nothing to report.

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

Closed Session - Motion by Schulz, second by Hosford, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, and Schulz voted yes. Motion carried (6-0-0).

The NADC went into Closed Session at 9:48 a.m.

The NADC returned to Open Session at 10:31 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated there were two matters to report from Closed Session. In the matter of Kenneth Campbell case 14-11 the Commission approved a settlement agreement with six Commissioners concurring, none dissenting, and none abstaining. The Commission found a violation of §49-1499.04(1)(b) and of §49-1499.04(2)(a). A civil penalty of \$3,000 was assessed with six Commissioners concurring, none dissenting and none abstaining. In the matter of Kenneth Kester case 14-35, the Commission approved a settlement agreement with six Commissioners concurring, none dissenting and none abstaining. The Commission found that the respondent had violated section 49-1493, failure to file a Statement of Financial Interests within 30 days of leaving office. By terms of the settlement agreement no civil penalty was assessed.

Adjournment – Motion by Grant, second by Schulz, that the NADC adjourn. Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, and Schulz voted yes. Commissioner Hosford abstained. Motion carried (5-0-1).

Chairman Brostrom declared the meeting adjourned at 10:33 a.m.