

**OPEN SESSION**  
**MINUTES OF THE MEETING OF THE**  
**NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION**  
**Friday, September 13, 2019**  
**Ferguson House, 700 S. 16<sup>th</sup> Street**  
**Lincoln, Nebraska**

**Call to Order** – Commissioner Enenbach 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 –

Marty Callahan - Present  
Tom Carlson – Present  
Jeffrey Davis - Present  
Matthew Enenbach – Present  
Robert Evnen – Excused for Late Arrival  
Douglas Hegarty - Present  
Andrew Loudon – Excused  
Jeffery Peetz – Present  
Kate Sullivan – Present

**Approval of the Open Session Minutes of the June 7, 2019 Meeting** – Chairman Enenbach referred the Commissioners to their copies of the Open Session minutes of the previous meeting.

**Motion by Sullivan, second by Carlson, that the Open Session Minutes of the June 7, 2019 meeting be approved as presented** - Roll Call Vote: Commissioners Callahan, Carlson, Davis, Peetz and Sullivan voted yes. Commissioner Enenbach and Commissioner Hegarty abstained. Motion carried (5-0-2).

The Executive Director indicated to the Commission that the attorney representing Hornady Manufacturing, Mr. Andre Barry had not arrived yet and they would proceed to Item 3 b) Scott M. Stevens and Associates.

**Report on late filing fees and requests for relief: Scott M. Stevens and Associates LLC, Scott Stevens** - The Executive Director indicated that this was a matter in which Scott M. Stevens and Associates had three late filings with a

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total late fee assessment of \$2,250.00. This amount was reduced to \$775.00 by action of the Executive Director. The filer further requested a reduction of late fees from \$775.00 to zero. Mr. Daley explained that at the June meeting the Commission had denied further relief. However, the Respondent had indicated he had sent a letter, which the Commission never received. A copy of the letter was sent after the June meeting and asks for reconsideration of the late fees assessed.

Discussion followed.

After discussion, the Commission's reconsideration of the late filing fees reduction on June 7, 2019 was not changed. The late fees reduced from \$2,250 to \$775 remains at \$775.

Mr. Daley noted for the record Mr. Barry's arrived at 9:30.

**Report on late filing fees and requests for relief: Hornady Manufacturing Company, Steve Hornady** - The Executive Director indicated that this was a request for relief from Hornady Manufacturing. The Respondent failed to timely file a Report of Political Contribution of a Corporation, Union or Other Entity (NADC Form B-7). The report was due on October 10, 2018 and filed on May 28, 2019. A late fee of \$750.00 were assessed. The Executive Director denied the request for relief based upon the fact that the report did not show less than \$5,000 in receipts and expenditures, making it ineligible for relief.

Andre Barry, Attorney-at-Law, appeared for Hornady Manufacturing Company and gave a presentation.

Discussion followed.

**Motion by Peetz, second by Davis, to reduce late filing fees from \$750 to \$250** - Roll Call Vote: Commissioners Callahan, Carlson, Davis, Enenbach, Hegarty, Peetz and Sullivan voted yes. Motion carried (7-0-0).

**Consideration and action on proposed Advisory Opinion #205 requested by Michael Klein, Attorney for Central Nebraska Public Power and Irrigation District relating to conflict of interest** – General Counsel Danberg indicated there are twelve members on the Board of the Central Nebraska Public Power & Irrigation District known as Central. Mr. Danberg explained there are standard agreements which Central has for those who are lessees of land along its lakes. Those standard agreements are known as standard form leases. It also has water service agreements with irrigators. It was noted that two members of the Central Board have leases for residences on land along the lakes. Six members have water service agreements for irrigation water. Mr. Danberg indicated that the two questions asked to be addressed by the Commission are;

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1. May all Central Nebraska Public Power & Irrigation District Board Members properly vote on all issues and actively participate in discussion among Board Members and staff relative to standard form leases and standard form water service agreements.
2. Are actions and decisions by Central Board Members affecting the standard form residential leases and standard form water service agreements distinguishable from the effect of such action on the public generally or on a broad segment of the public.

General Counsel Danberg indicated that the proposed opinion concluded that the answer to the first question is no. The opinion takes the position that board members with lease agreements should not participate in the process of discussing and preparing standard form lease agreements. In addition, those with water service agreements should not participate in the process of discussing and preparing standard form water service agreements. These actions could constitute a conflict of interest since they could result in a financial benefit or detriment to the board member. Mr. Danberg indicated that the answer to the second question is yes.

Discussion followed.

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.

Monty Vonasek identified himself as an owner of a mechanized irrigation company and current lease holder at Johnson Lake with a background in engineering. He addressed the Commission in opposition to Advisory Opinion #205.

DeeDee Pedersen of Bertrand Nebraska identified herself as a cabin lease holder at Johnson Lake and a farmer in Phelps, Gosper and Dawson Counties. She asked the Commission that why it would ask a member of the Board to abstain from a vote when that person is elected to represent and provide his or her knowledge. Ms. Pedersen expressed her opposition to Advisory Opinion #205.

Donald Sneeze of Bertrand Nebraska spoke in opposition concerning Advisory Opinion #205. He thought that the only thing that is voted on is the rate. He stated that the advisory opinion would only serve to silence the people who know the most, and who are the people who need to vote.

Discussion followed.

**Motion by Peetz, second by Davis, to adopt proposed Advisory Opinion #205** – Roll Call Vote: Commissioners Callahan, Davis, Enenbach, Hegarty,

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Peetz and Sullivan voted yes. Commissioner Carlson voted no. Motion carried (6-1-0).

**Executive Director's Report (includes personnel activity, budget status, budget process and litigation status)** - The Executive Director referred the Commissioner's to their packets and indicated that this Commission meeting

Executive Director Daley reported that Secretary of State Evnen had indicated that he was working on finding a successor for Commissioner Andrew Loudon. None has been selected yet.

Executive Director Daley indicated that at two months into the current budget year, the Commission has expended approximately 15.5% of the agency budget.

The Executive Director reported that the electronic filing project is approaching completion.

The Director next reported that the Commission is in discussions with Nebraska.gov. which hosts the Commission website and its current database. Mr. Daley indicated that the discussions are for the development of a new agency website. Nebraska.gov hosts the websites of most state agencies. It has been in the process of shifting most state websites to its new Meadowlark platform. The current website platform is good for use with a desktop. However, is not fully compatible for use with mobile devices. Nebraska.gov will no longer be supporting the Commission's current web platform which makes it necessary to move to the new one.

Discussion followed.

Executive Director indicated to the Commission that the original plan was to submit a draft of Rule 2 for adoption of rulemaking purposes. Mr. Daley noted that due to delays with agencies not responding, the draft is not ready. The plan now is to submit a draft of Rule 2 for Commission review at the October meeting. The Commission would adopt the draft for formal rule making purposes. The formal rule hearing would take place at the December meeting. This will give State agencies an additional opportunity to comment.

Executive Director Daley announced that this year the Council on Governmental Ethics Laws (COGEL) Conference will be held in Chicago Illinois from December 15<sup>th</sup> through 18<sup>th</sup> 2019. The Commission typically sends two staff members. Mr. Daley noted that COGEL is an organization that consists primarily of government agencies in the U.S., Canada and other countries which focuses on campaign finance laws, governmental ethics laws, lobbying laws and public information and meetings laws.

Discussion followed.

The Executive Director announced that the Quarterly Lobbyist and Principal Reports were available to the public for review. Daley indicated that the 2019 Lincoln City Election Reports were in and available to the public for review on the Commission's website.

The Executive Director indicated that there was nothing to report as to pending litigation.

**Consideration and adoption of proposed meeting dates for 2020 and 2021 –** Executive Director Daley referred the Commission to the proposed meetings dates for 2020 and 2021. Daley advised that the Commission typically approves meeting dates for a two year period.

Discussion followed.

**Motion by Davis, second by Hegarty, that the Commission adopt the meeting dates for 2020 and 2021** – Roll Call Vote: Commissioners Callahan, Carlson, Davis, Enenbach, Hegarty, Peetz, and Sullivan voted yes. Motion carried (7-0-0).

**Report of Conflicts Committee** – Chairman Enenbach indicated that there were no conflicts.

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

**Closed Session - Motion by Davis, second by Peetz, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA** - Roll Call Vote: Commissioners Callahan, Carlson, Davis, Enenbach, Hegarty, Peetz and Sullivan voted yes. Motion carried (7-0-0).

The NADC went into Closed Session at 10:01 a.m.

The NADC returned to Open Session at 10:37 a.m.

**Action on or Announcement of Closed Session matters** - Executive Director Daley announced that the Commission had taken the following action in closed session.

In the matter of Timothy Moore (#17-08) the Commission adopted findings of fact, conclusions of law and entered an order by which it found nine violations of §49-14,103.01(5) and found no violation of two counts of §49-14,101.01. The Commission assessed a civil penalty of \$500. The action was taken with eight Commissioners concurring, none dissenting and none abstaining.

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**Adjournment – Motion by Peetz, second by Enenbach, that the NADC adjourn.** Roll Call Vote: Commissioners Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz and Sullivan voted yes. Motion carried (8-0-0).

Chairman Enenbach declared the meeting adjourned at 10:37 a.m.