

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
Friday, April 17, 2020
Via Conference Call
Lincoln, Nebraska

Call to Order – Commissioner Enenbach called the meeting to order at 9:01 a.m. He introduced Executive Director Frank Daley. Mr. Daley announced that the Nebraska Accountability and Disclosure Commission was meeting via conference call pursuant to Executive Order 20-03. Members of the public were welcome to listen and participate. Daley stated that a copy of the meeting material and the Open Meetings Law are available by email upon request.

Roll Call –

Marty Callahan – Present
Tom Carlson – Present
Jeffrey Davis - Present
Matthew Enenbach – Present
Robert Evnen – Present
Douglas Hegarty – Present
Jeffery Peetz – Present
Kate Sullivan – Present

Approval of the Open Session Minutes of the March 6, 2020 Meeting – Chairman Enenbach referred the Commissioners to their copies of the Open Session minutes of the previous meeting.

Motion by Evnen, second by Sullivan, that the Open Session Minutes of the March 6, 2020 meeting be approved as presented - Roll Call Vote: Commissioners Carlson, Davis, Enenbach, Evnen, Hegarty and Sullivan voted yes. Commissioner Callahan and Commissioner Peetz abstained. Motion carried (6-0-2).

Report on late filing fees and requests for relief: none.

Executive Director’s Report (includes personnel activity, budget status, budget process and litigation status) - The Executive Director reported that the term of Commissioner Loudon has expired. the vacancy will be filled by the

Open Session Minutes
April 17, 2020

Secretary of State. The term of Commissioner Sullivan will expire on June 30, 2020. Since Commissioner Sullivan is serving an unexpired term, she is eligible for re-appointment to a full six year term. The appointment will be made by the Governor from a list of five names provided by the Legislature. Both the Governor and Speaker of the Legislature have been notified of this impending vacancy.

The Executive Director indicated that nine months into the current budget year, the Commission had expended approximately 70% of the agency budget.

Executive Director Daley reported that due to the current health emergency the Agency has adjusted its operating procedures and 75% of Commission staff has relocated outside of the office. All staff have remote access to state email. Most have access to their state computer through a VPN. Mr. Daley further reported that regular office hours are being maintained. There are usually one or two staff members in the office to handle incoming filings, U.S. Mail, faxes, phone calls and walk-ins.

The Executive Director noted that at the March 6th meeting, the Commission approved Rule #2, Designation of Individuals Required to File Statements of Financial Interests. The Attorney General has reviewed and approved the rule. It is now before the Governor. If the Governor approves Rule #2, it will be filed with the Secretary of State and become effective 5 days thereafter.

Executive Director Daley next reported that the request for a deficit appropriation of \$61,000 had been submitted and had been before the Appropriations Committee. As of the temporary adjournment of the Legislature the outlook was positive.

The Executive Director reported that the work continues on the electronic filing project.

Executive Director Daley stated that the Lobbyist and Principal Reports for the 1st Quarter are due on April 30, 2020. Reports will be available for review on the Clerk of the Legislature's website.

The Executive Director indicated that 1st Primary Campaign Statements were due on April 13, 2020. Those filed are available for review on the Commission website. The 2nd Primary Campaign Statements are due May 4, 2020.

General Counsel Danberg reported that the District Court of Buffalo County has not taken any action and has not set any hearings in the matter of the NADC v. Timothy Moore. Danberg indicated he keeps in contact with the Attorney General's Office, which is representing the Commission.

Consideration and action on Resolution #20-01, Resolution on Late Filing Fees During State of Emergency – Executive Director Daley indicated that the primary election is scheduled for May 12th. Campaign statements are due April 13, May 4, and June 22nd. Mr. Daley pointed out that during the current state of emergency, there is potential for disruptions to the usual campaign process that could impede the timely filing of campaign statements. The Director stated that proposed Resolution #20-01 provides that a delay in filing due to the current state of emergency or the Corona Virus may constitute Good Cause Shown for the purpose of granting relief from late filing fees.

Discussion Followed.

Motion by Evnen, second by Peetz, that the Commission adopt proposed Resolution #20-01 as amended – Roll Call Voted: Commissioners Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (8-0-0).

Consideration and action on Resolution #20-02, Confirming and Formalizing the Methods of Giving Notice of Meetings – Executive Director Daley indicated that the Assistant Attorney General Leslie Donnelly had made a presentation on the Open Meetings Law to representatives of the state's non-code agencies. She stated that boards and commissions are required to provide advance notice of meetings. The Commission does this. Ms. Donnelly also indicated that the method of notification must be stated in the minutes of the body. The Commission does not do this. Mr. Daley stated that Resolution #20-02 would confirm and continue the current practices of giving notice of the Commission meetings. Thereafter, the minutes of Commission meetings could simply reflect that notice was given pursuant to Resolution #20-02. According to Daley, notice of meetings is given by maintaining an agenda at the Commission office, sending copies to those who request to be on the mailing list, posting it on the Commission website, and placing meeting information on the State's public calendar website. The agenda includes date, time and place of the meeting.

Motion by Peetz, second by Carlson, that the Commission adopt the proposed Resolution #20-02 – Roll Call Vote: Commissioners Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (8-0-0).

Report of General Counsel: Auditor of Public Account letters to Villages and other political subdivisions – General Counsel Danberg reported that the Auditor of Public Accounts (APA) had sent the NADC copies letters addressed to municipalities. The letters raised compliance issues with various state laws including the NPADA. Danberg indicated that Executive Director Daley had asked the General Counsel to review each letter and make a recommendation as to disposition. As to 38 of the letters, the General Counsel recommended no follow-up since the issues raised were minor compliance issues. Danberg

Open Session Minutes
April 17, 2020

recommended follow-up for 5 of the jurisdictions and a compliance check at a future date. Of the remaining three, one is being examined by the Attorney General for possible criminal prosecution. In the second, the County Attorney is reviewing the matter for possible criminal prosecution. In the third matter, the NADC is proceeding with a preliminary investigation.

Executive Director asked if any member of the public wished to comment on any matter on the agenda. There was no response.

Legislative Update - The Executive Director Daley stated that due to concerns about the Corona Virus, the Legislature adjourned on March 12th. It returned temporarily on March 23, 24, and 25th at the Governor's request in order to act on emergency funding related to the pandemic. The Legislature will be called back into Session by Speaker Scheer when he deems it safe to do so. The Executive Director next gave the update of legislative bills.

LB 803 – This bill by Senator Lowe creates the Pulse Crop Utilization Board. The bill makes the new board subject to the special conflict of interest provisions of the NPADA applicable to other commodities boards.

LB 889 – This bill by Senator Hilgers amends provisions of the Administrative Procedures Act. The APA governs appeals of state agency decisions to the courts, including the decisions of the NADC. Primarily the bill clarifies existing language and deletes obsolete language.

LB 1136 – This bill by Senator Williams eliminates provisions of chapter 70, relating to public power districts, rural public power districts and irrigation districts. The current provision prohibits members of the board from having an interest in a contract with the district and subjects them to removal. The bill would bring the members within the provisions of the NPADA relating to an interest in a contract. LB 1136 has been amended into LB 1055, which primarily relates to elections. Five legislative bills have been amended into LB 1055. LB 1055 bill is a committee priority bill.

Determination of process for June election of officers – Executive Director Daley explained that the election of Commission officers takes place in June. By policy, the Chairperson and Vice-Chairperson are limited to serving two consecutive terms. The Secretary is eligible to serve an unlimited number of terms. Mr. Daley indicated that typically a member of the Commission prepares a proposed slate and submits it in advance of the June meeting. At the June meeting the Commission may adopt or not adopt the slate of officers. Daley noted that any Commissioner may make a floor nomination.

Discussion followed. Commissioner Enenbach stated that he would put together a proposed slate of officers.

Open Session Minutes
April 17, 2020

Determination of process for June evaluation of Executive Director – Chairman Enenbach stated that a form for the evaluation of Executive Director Daley has been used and refined through the years. This form is sent out to the Commissioners for their comment and review of the Executive Director. Chairman Enenbach indicated that the compilation of the comments and review would be considered by the Commission at the June meeting.

Discussion followed.

Report of Conflicts Committee – Commissioner Peetz indicated that there is no report.

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

Closed Session – There was no Closed Session at the April meeting.

Adjournment – Motion by Sullivan, second by Carlson 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 9:47 a.m.