

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
Friday, August 14, 2020
Lower Level Conference Room B
State Office Building, 301 Centennial Mall South
Lincoln, Nebraska

Call to Order – Chairman Davis 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 –

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

Approval of the Open Session Minutes of the June 5, 2020 Meeting – Chairman Davis referred the Commissioners to their copies of the Open Session minutes of the previous meeting.

Motion by Carlson, second by Evnen, that the Open Session Minutes of the June 5, 2020 meeting be approved as presented - Roll Call Vote: Commissioners Callahan, Carlson, Davis, Evnen and Hegarty voted yes. Motion carried (5-0-0).

Report on late filing fees and requests for relief: Brenda Bickford for Legislature, Matt Schulte, Treasurer – The Executive Director indicated that the first and second campaign statements during 2020 were filed late. The request for relief was denied on the First Primary Campaign Statement based upon the fact the late filing disclosed receipts of more than \$5,000. This exceeded the statutory criteria for relief. Mr. Daley explained that the Second Primary Campaign Statement was not eligible for relief because there had been a late filing fee during the prior two years.

Discussion followed.

Mr. Matt Schulte, Treasurer for the Brenda Bickford for Legislature Committee gave a presentation in which he took the position that the first filing was timely mailed and therefore, not late.

Discussion followed.

Motion by Evnen, second by Carlson, that the Commission dismiss on #1) and reduce the late filing fees to zero on #2) – Roll Call Vote: Commissioners Callahan, Carlson, Davis, Evnen and Hegarty voted yes. Motion carried (5-0-0).

Report on late filing fees, and requests for relief: Mai Oil, Inc. - The Executive Director indicated to the Commission that the attorney for Mai Oil, Inc. Ms. Teri Vukonich-Mikkelsen was present at the meeting. Executive Director Daley indicated that the Mai Oil Company had made a contribution of \$335,000 to a ballot question committee. The company is an out-of-state entity, and as such is required to file an *Out Of State Contribution Report* (NADC Form B-9). This report was due March 10th and was filed on April 13, 2020. Mr. Daley explained that a late fee of \$34,550 was assessed using the statutory formula for calculating the amount.

Discussion followed.

Teri Vukonich-Mikkelsen, Attorney-at-Law appeared for Mai Oil, Inc. and gave a presentation. Her position was that since part of the contribution was returned to Mai Oil several months later, the calculation of late fees should be based upon the amount of the contribution, minus the refund and not on the amount of the original contribution.

Discussion followed.

Motion by Hegarty, second by Callahan, that the Commission deny the request for relief from late filing fees - Roll Call Vote: Commissioners Callahan, Carlson, Davis, Evnen and Hegarty voted yes. Motion carried (5-0-0).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) - The Executive Director referred the Commissioner's to their packets. Mr. Daley reported that currently there is one vacancy on the Commission and another appointment that is pending. The vacancy will be filled by appointment by the Secretary of State.

The Executive Director indicated that the term of Commissioner Sullivan expired on June 30th, 2020. Commissioner Sullivan will stay in office until she is reappointed or until her replacement is named. The appointment will be made by the Governor from a list of five names provided by the Legislature. He stated that

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the Legislature had recently submitted a list of names, which included that of Commissioner Sullivan.

Discussion followed.

The Executive Director indicated that one month into the current budget year, the Commission had expended approximately 7.8% of the budget in the current fiscal year.

Discussion followed.

The Executive Director reported that as of June 29th, the entire Commission staff resumed full-time to on-site office work. Mr. Daley indicated that health and safety measures have been implemented.

Executive Director Daley reported that the Commission had submitted a deficit request of \$62,000 for Fiscal Year 2019-2020 and \$56,000 for Fiscal Year 2020-2021. The request is the result of the electronic filing project and the necessary move of the agency website to a new platform. The request of \$118,000 was included in LB 1008 and was passed by the Legislature. The bill has since been signed by the Governor.

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

Executive Director Daley reported that the agency's website will be migrating to a new platform, and nebraska.gov is about to begin this work.

Executive Director Daley reported that the Lobbyist and Principal Reports for the 2nd Quarter were due on July 30, 2020. Reports that have been filed are available for review on the Clerk of the Legislature's website.

The Executive Director next reported that Post Primary Campaign Statements for the 2020 elections were due on June 22, 2020. Those filed are available for viewing on the Commission website. The 1st General Election Campaign Statements are due on October 5, 2020.

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

General Counsel Danberg indicated that in the matter of NADC v. Timothy Moore, the appeal is pending before the District Court of Buffalo County. The Attorney General's Office, is representing the Commission.

Discussion followed.

Consideration and action on proposed budget for the upcoming Biennium (FY21/22 and FY22/23) – Executive Director Daley explained that he usually submits a complete budget proposal to the Commission. He stated, however, that because of the covid virus, the Legislature did not complete its work in April as scheduled and did not adjourn sine die until August 13th. As a result, the Budget Division of the Department of Administrative Service has not completed imputing data into the electronic budget system or completed its budget instructions to state agencies. He stated that Deputy Director David Hunter has prepared the budget to the extent possible, but changes, based on data input by the Budget Division may result in changes.

Daley noted that the anticipated highlights of the proposed budget are \$2,000 in FY21/22 and \$4,000 in FY22/23 for maintenance of the electronic filing system; \$5,000 for renewal of the SQL server license; a 2% increase for personnel (per budget instructions); and a 4% increase in health insurance costs (per budget instructions).

Daley stated that the Commission may: a) approve the proposed budget based upon the information provided; b) delay approval and hold a meeting on September 11 for the purpose of approval; or c) conditionally approve the proposed budget and delegate to the Executive Committee the duty to confirm approval of the final budget submission.

Daley noted that the Commission's budget proposal must be submitted by September 15.

The Executive Director extended his appreciation to Deputy Director Hunter for all of his work during a difficult and unusual budget process.

Discussion followed.

Motion by Evnen, second by Carlson, that the Commission approve the preparation of the budget in accordance with the August 5, 2020 memorandum provided to the members of the Commission by Mr. Daley titled Proposal for Budget Biennium FY21/22 to FY22/23, and that it authorize and direct the Executive Committee of the Commission to review the final budget and approve it if the Executive Committee deems it in compliance with that memorandum – Roll Call Vote: Commissioners Callahan, Carlson, Davis, Evnen and Hegarty voted yes. Motion carried (5-0-0).

Consideration and action on:

- a) Resolution #20-03 – Modification of filing requirements for 2021 Lincoln elections
- b) Resolution #20-04 – Modification of filing requirements for 2021 Omaha elections

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Executive Director Daley indicated campaign statement filing schedule in the Accountability and Disclosure Act assumes a May Primary Election and a November General Election. However, the cities of Lincoln and Omaha are both charter cities and can set their own election dates. Both cities hold their primary elections in April and their general elections in May. Following the statutory filing schedule for campaign statements results in overlapping reporting periods. Mr. Daley indicated that for more than thirty the Commission has used its statutory authority to modify the filing requirements to modify the reporting schedule and eliminate confusion. To accomplish this modification two resolutions are needed, one for each city.

Discussion followed.

Motion by Callahan, second by Evnen, that the Commission adopt the modifying filing requirements for Resolution #20-03 for the 2021 Lincoln City Election – Roll Call Vote: Commissioners Callahan, Carlson, Davis, Evnen and Hegarty voted yes. Motion carried (5-0-0).

Motion by Evnen, second by Carlson, that the Commission adopt the modifying filing requirements for Resolution #20-04 for the 2021 Omaha City Election – Roll Call Vote: Commissions Callahan, Carlson, Davis, Evnen and Hegarty voted yes. Motion carried. (5-0-0).

Legislative Update - Executive Director Daley indicated to the Commission that the Legislature reconvened on July 20th and adjourned Sine Die on August 13th, 2020. Mr. Daley reported on three legislative bills of interest to the Commission.

LB 803 creates the Pulse Crop Utilization, Development and Marketing Board. The bill also applies the special commodities board conflict of interest provision of the NPADA to the new board. The bill was passed by the Legislature and signed by the Governor.

LB 889 clarifies the appeal provisions of the Administrative Procedures Act. The APA governs appeals from Commission decisions. The bill was passed by the Legislature and signed by the Governor.

LB 1136 applies the contractual interest provisions of the NPADA to members of public power districts and other entities. This bill was amended into LB 1055 which was passed by the Legislature and signed by the Governor.

Discussion followed.

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

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

Closed Session - Motion by Hegarty, second by Callahan, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA – Roll Call Vote: Commissioners Callahan, Carlson, Davis, Evnen and Hegarty voted yes. Motion carried (5-0-0).

The NADC went into Closed Session at 10:09 a.m.

The NADC returned to Open Session at 10:28 a.m.

Adjournment – Motion by Evnen, second by Callahan, that the NADC adjourn. Roll Call Vote: Commissioners Callahan, Carlson, Davis, Evnen and Hegarty voted yes. Motion carried (5-0-0).

Chairman Davis declared the meeting adjourned at 10:28 a.m.