

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

Friday, December 4, 2020

Via Conference Call

Lincoln, Nebraska

Call to Order – Chairman Davis called the meeting to order at 9:02 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 20-36. Members of the public are welcome to listen and participate. Daley stated that a copy of the meeting material and the Open Meetings Law are available by email by request.

Roll Call –

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

Introduction of new Commissioner Rodrick Anderson – Secretary of State Robert Evnen introduced and welcomed new Commissioner G. Roderic Anderson of Omaha. He was appointed to the Commission by Secretary Evnen on September 9, 2020 to an unexpired six year term ending June 30, 2025.

Approval of the Open Session Minutes of the August 14, 2020 Meeting – Chairman Davis referred the Commissioners to their copies of the Open Session minutes of the previous meeting.

Motion by Evnen, second by Callahan, that the Open Session Minutes of the August 14, 2020 meeting be approved as presented - Roll Call Vote: Commissioners Callahan, Carlson, Davis, Enenbach, and Evnen, voted yes. Anderson, Peetz and Sullivan abstained. Motion carried (6-0-3).

Report on late filing fees and requests for relief: Committee to Retain Lee Polikov County Attorney, Lee Polikov, Candidate – Executive Director Daley

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asked the Commission to table the matter until the next Commission meeting in January. There was no disagreement.

Report on late filing fees, and requests for relief: Marakess Corp d/b/a One Way – All American Insurance, Mary Kessler - The Executive Director indicated to the Commission that the Marakess Corp had made a contribution in February 2020 and was required to file a *Report of Political Contribution of a Corporation, Union, or other Association* (NADC Form B-7). This report was due March 10th and was filed on August 24, 2020. A late filing fee of \$750 was assessed. A request for relief was denied by the Executive Director. He explained that the entity had paid late fees of \$25 reduced from \$750 for a report due December 10, 2019 and filed March 31, 2020 and therefore was not eligible for relief having paid late fees in the past 2 years.

Discussion followed.

Motion by Evnen, second by Enenbach, that the Commission reduce the late filing fees from \$750 to \$500 - Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Peetz and Sullivan voted yes. Motion carried (8-0-0).

Report on late filing fees, and requests for relief: HR Systems, Doug Petersen - The Executive Director indicated that this was a request for relief from HR Systems, Doug Petersen. The Respondent had failed to file three *Reports of Political Contribution of a Corporation, Union or Other Entity* (NADC Form B-7). The reports were due on August 12, September 10, 2019 and January 10, 2020. All three were filed on September 4, 2020. Late fees of \$2,250.00 were assessed. A request for relief was denied by the Executive Director because the corporation had paid late fees in the two prior years and was not eligible for relief.

Discussion followed.

Motion by Enenbach, second by Peetz, to deny the request for relief from late filing fees for HR Systems, Doug Petersen - Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Peetz and Sullivan voted yes. Motion carried (8-0-0).

Consideration and discussion of issues raised by Kathryn High – The Executive Director directed the Commission’s attention to the document submitted by Kathryn High. He proposed the creation of an Ad Hoc Committee. This committee would review and examine the multiple issues raised in the document. The Ad Hoc Committee would then report its findings to the Commission along with any recommendations. Without objection, Chairman Davis appointed Commissioners Sullivan and Hegarty to the committee.

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Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) - The Executive Director's report noted that Secretary of State Robert Evers has appointed G. Roderic Anderson to the Commission. He also noted that Governor Pete Ricketts has reappointed Commissioner Sullivan to a full six-year term on the Commission

The Executive Director indicated that four months into the current budget year, the Commission had expended approximately 22.50% of the budget in the current fiscal year.

The Executive Director reported that currently the entire Commission staff is working on-site at the office. Mr. Daley further reported that staff members are required to wear masks except when at their work stations. He noted that the agency is prepared to have 75% of staff work remotely if necessary.

The Executive Director indicated that the electronic filing project will not be ready to launch in January. Testing indicates that there are still minor issues with the system. The contractor has been instructed to focus on work related to the electronic filing of Statements of Financial Interests. The plan is to have this part of the system available for use in January. Mr. Daley indicated that 2021 candidates in the Omaha and Lincoln City elections will use the current system for their filings. Thereafter, staff and filers will be trained on the new system and will use it in the 2022 elections.

Daley reported that the agency's website will be migrating to a new platform. This move will create a new agency website that will be compatible with most mobile devices.

The Executive Director indicated that the Council on Governmental Ethics Laws (COGEL) conference was to be held in Atlanta, Georgia beginning on December 13. However, due to the pandemic, the conference will be virtual. Conference sessions will be available from December 1 through December 31. Daley stated that any Commissioner interested in accessing these sessions should contact him.

Executive Director Daley reported that the Lobbyist and Principal Reports for the 3rd Quarter were due on October 30, 2020. Reports that have been filed are available for review on the Clerk of the Legislature's website. Lobbyist renewals are due on December 31st.

The Executive Director next reported that the 2020 2nd General Election Campaign Statements were due on October 26, 2020. Those filed are available for viewing on the Commission website. The 2020 Post General Election Campaign Statements are due on January 12, 2021.

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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 Commission's decision has been upheld by the District Court of Buffalo County. Mr. Moore has appealed to the Nebraska Court of Appeals. The Attorney General's Office, is representing the Commission.

Consideration and action on proposed budget for the upcoming Biennium (FY21/22 and FY22/23) – Executive Director Daley indicated to the Commission that at the August meeting the staff had presented an outline of the proposed budget for the 2021/2023 biennium. The Executive Director explained that because of the usually late adjournment of the Legislature, it was not possible to present the final budget proposal. The Commission delegated to the Executive Committee the duty of reviewing and approving the final budget.

The Executive Director reported that the Executive Committee met on September 9, 2020 via conference call. He indicated that after discussion, the agency proposal was approved and the staff submitted the proposal to the Budget Division of the Department of Administrative Services prior to the September 15th deadline.

Discussion of Legislative Session - Executive Director Daley indicated to the Commission that the Legislature is scheduled to convene on January 6, 2021. Mr. Daley explained that new legislation may be introduced during the first ten days of the legislative session and that there will be no carryover legislation from the 2020 session.

Executive Director Daley reported that Senator Cavanaugh had expressed concern about having her home address on her filings with the Commission. The Senator was advised that multiple types of NPADA filings require an address. However, no filings from a candidate or office holder require a home address. The Senator is considering legislation on this issue.

Daley also reported that the League of Nebraska Municipalities will be promoting legislation that amends the merger of office statute applicable to villages. The current provision includes a cross reference to the NPADA.

Daley also noted that the Commission would attempt to secure legislation to address conflicting provisions within §49-14,103.01. The statute regulates certain elected officials who have an interest in a contract with their governing bodies.

The Executive Director restated the Commission policy by which staff would consult with the Executive Committee if it needed direction as to legislative matters.

Discussion followed.

Report of Conflicts Committee – Commissioner Peetz indicated that there was no report from the Conflicts Committee.

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

Closed Session - Motion by Sullivan, second by Peetz, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA – Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Peetz and Sullivan voted yes. Motion carried (8-0-0).

The NADC went into Closed Session at 9:47 a.m.

The NADC returned to Open Session at 11:23 a.m.

Announcements – Executive Director Daley announced the following actions taken by the Commission in closed session:

Executive Director v. Fennessy for Papio NRD and Sean Fennessy, Candidate (#20-06) - Pursuant to a settlement agreement the commission found a violation of §49-1462, failure to file an annual Campaign Statement. There being a pending late fee of \$750.00, no civil penalty was assessed. The Commission approved the Settlement Agreement with eight Commissioners concurring, none dissenting and none abstaining.

Executive Director v. American Council of Engineering Companies NE PAC and Jeanne McClure, Treasurer (20-14) - Pursuant to a settlement agreement, the Commission found 3 violations of §49-1459, failure to file a campaign statement. There being a late fee of \$2,250, no civil penalty is assessed. The Commission approved the Settlement Agreement with eight Commissioners concurring, none dissenting and none abstaining.

Executive Director v. Zachary Taylor (#20-19) - Pursuant to a settlement agreement, the Commission found one violation of §49-14,102, having a prohibited interest in a contract and one violation of §49-14,101.01, use of public office for financial gain. By the terms of the settlement agreement, the respondent will pay a civil penalty of \$250 and reimburse Platte Township in Dodge County the sum of \$4,836.73. The Commission approved the Settlement Agreement with eight Commissioners concurring, none dissenting and none abstaining.

Executive Director v. Jeremy Moss (20-12) - Pursuant to a settlement agreement, the Commission found four violations of §49-14,102, having a

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prohibited interest in a contract and four violations of §49-14,101.01, use of public office for financial gain. By the terms of the settlement agreement, the respondent will pay a civil penalty of \$2,000 and reimburse Elkhorn Township in Dodge County the sum of \$22,000. Two allegations are dismissed. The Commission approved the Settlement Agreement with eight Commissioners concurring, none dissenting and none abstaining.

Executive Director v. Stanley Odenthal (19-50) - Pursuant to a settlement agreement, the Commission assessed a civil penalty of \$250 for failure to file a Statement of Financial Interests in violation of §49-1493. The Commission approved the Settlement Agreement with eight Commissioners concurring, none dissenting and none abstaining.

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

Chairman Davis declared the meeting adjourned at 11:30 a.m.