

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

**Friday, January 15, 2021**

**Via Conference Call**

**Lincoln, Nebraska**

**Call to Order** – Commissioner Peetz 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 20-03. 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 by request.

Roll Call –

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

**Approval of the Open Session Minutes of the December 4, 2020 Meeting** – Commissioner Peetz referred the Commissioners to their copies of the Open Session minutes of the previous meeting.

**Motion by Carlson, second by Callahan, that the Open Session Minutes of the December 4, 2020 meeting be approved as presented** - Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Peetz and Sullivan voted yes. Commissioner Hegarty abstained. Motion carried (5-0-1).

Commissioner Peetz stated to let the record show Commissioner Hegarty was present at 9:20 a.m.

**Report on late filing fees and requests for relief: Committee to Retain Lee Polikov County Attorney, Lee Polikov, Candidate** – Executive Director Daley indicated that this matter is a request by Committee to Retain Lee Polikov County Attorney and Lee Polikov, Candidate to have the Commission to review the Executive Director's denial of relief from late filing fees. The Commissioners were

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also asked to review additional information provided by Lee Polikov. The Executive Director reported that this matter concerned the 2019 Annual Campaign Statement that was due on January 31, 2020 and filed June 9, 2020. A late fee of \$750 was assessed. Mr. Daley noted that the committee paid a late filing fee of \$25 in 2018. Therefore, the committee does not meet the criteria for relief in that it was required to pay a late fee during the two years prior to the date that the filing was due.

Lee Polikov addressed the Commission setting forth his belief that he qualifies for relief for good cause.

Discussion followed.

**Motion by Evnen, second by Anderson, that the Commission reduce the late filing fees from \$750 to \$125** - Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Evnen, Hegarty, Peetz and Sullivan voted yes. Motion carried (7-0-0).

**Report on late filing fees, and requests for relief: Nebraska Dental Hygienists PAC, Nicole Baker/Kent Rogert** - The Executive Director reported that in 2020 the Nebraska Dental Hygienists PAC was required to file a 1<sup>st</sup>, 2<sup>nd</sup> and Post Primary Campaign Statement. These reports were due April 13, May 4, and June 22, 2020 and filed on November 17, 2020. A late filing fee of \$2,250 was assessed. The Director explained that a Request for Relief was denied in part and granted in part. Daley stated that under the statutory criteria he could reduce the 1<sup>st</sup> Primary to \$0 and the 2<sup>nd</sup> Primary to \$25. The late fee for the Post Primary would be denied based upon paying the \$25 for the 2<sup>nd</sup> Primary.

Kent Rogert addressed the Commission on behalf of the PAC as to good cause shown.

Discussion followed.

**Motion by Evnen, second by Sullivan, that the Commission reduce the late filing fees from \$2,250 to \$400** - Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Evnen, Hegarty, Peetz and Sullivan voted yes. Motion carried (7-0-0).

**Report Ad Hoc Operation Review Committee** – Executive Director indicated that the Ad Hoc Committee had met via conference call on January 4, 2021. The committee reviewed and examined the multiple issues set forth in a document submitted by Kathryn High, and referred to as the Issues Document. The categories for review will be:

1. Failure of filers to report legal names/inconsistent use of names of individual contributors

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2. Use of street addresses
3. Joint contributors
4. Unregistered PACS
5. Pattern of inconsistent, inaccurate and confusing disclosures
6. Problematic operating procedures

The committee also adopted a method of operation for the study which is set forth in the committee memo to the Commission.

The Ad Hoc Committee will then make any recommendations, as needed to the Commission.

Discussion followed.

**Executive Director's Report (includes personnel activity, budget status, budget process and litigation status)** - Mr. Daley reported that Commissioner Jeffery Davis's term on the Commission will end on June 30th. He is filling an unexpired term, and is eligible for reappointment. The appointment will be made by the Governor.

The term of Commissioner Matthew Enenbach expires on June 30<sup>th</sup>. He is not eligible for reappointment. Commissioner Enenbach's successor will be appointed by the Secretary of State from a list provided by the Democratic Party.

The term of Commissioner Jeffery Peetz expires on June 30, 2021. Mr. Peetz is not eligible for reappointment. His successor will be appointed at-large by the Secretary of State.

The Executive Director indicated that six months into the current budget year, the Commission had expended approximately 35% of the budget in the current fiscal year.

The Executive Director reported that currently the entire Commission staff is working at the office with safety measures in place.

The Executive Director reported that the electronic filing project is not ready to fully launch. The contractor has been instructed to focus on work related to the Statements of Financial Interest so this part of the system will be available for the public use. Mr. Daley indicated that 2021 candidates in the Omaha and Lincoln City elections will use the current system for their campaign filings. The intent is to launch the new electronic filing system for campaign statements in July.

Executive Director 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.

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Executive Director Daley reported that the Lobbyist and Principal Reports for the 4th Quarter are due on February 1, 2021. Reports that are filed will be available for review on the Clerk of the Legislature's website. Lobbyist renewals were due on December 31st.

The Executive Director next reported that the 2020 Post General Election Campaign Statements were due on January 12, 2021. Those filed are available for viewing on the Commission website. The Annual Campaign Statements are due on February 1, 2021.

General Counsel Danberg stated that the matter of NADC v. Timothy Moore, the Commission's decision is on appeal before the Nebraska Court of Appeals. Briefs are pending. The Attorney General's Office, is representing the Commission on appeal.

Discussion followed.

**Legislative Update** - Executive Director Daley stated that the Legislature convened on January 6, 2021. New legislation may be introduced during the first ten days of the session.

Executive Director Daley discussed legislation introduced so far that is of interest to the Commission.

LB 8 – This bill by Senator Blood would require the reporting of electioneering expenditures or issue ads to the Nebraska Accountability and Disclosure Commission. The Executive Director recommended that the Commission support LB 8.

LB 65 – This bill by Senator Williams was introduced at the request of the Commission. It would correct an inconsistency in §49-14,103.01 relating to elected officials having an interest contract with their political subdivisions. The Executive Director recommended that the Commission support LB 65.

LB 83 – This bill by Senator Flood would permit governmental bodies, including state boards and commissions, to meet via "virtual conferencing". The Executive Director recommended that the Commission support LB 65.

LB 112 – A bill by Senator Albrecht would amend the Open Meetings Act and require public bodies, including state boards and commissions, to allow the public to speak at all meetings with the exception of when meeting in closed session. The Executive Director recommended a position of neutral or oppose as drafted.

LB 195 – This bill by Senator Halloran would provide that an individual appointed by the Legislature as Nebraska's delegate to a U.S. Constitutional Convention

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must act in accordance with the instructions of the Legislature. The bill makes a cross reference to the NPADA. The Executive Director recommended a position of neutral to the Commission.

LB 212 – This bill by Senator M. Cavanaugh would provide that no fee shall be charged to a member of the Legislature for public records and that record requests be fulfilled within 15 business days. The Executive Director recommended a position of neutral.

LB 213 – This is a bill by Senator Briese that would require the Department of Administrative Services to contract with an outside party to conduct an efficiency study of 191 state agencies, boards and commissions, including the NADC. The Executive Director recommended a position of neutral.

LB 294 – This bill by Senator Flood would allow agency deputy directors to be removed from the classified personnel system. The effect is that an agency would have more discretion in setting compensation. The Executive Director recommended that the Commission support LB 294.

LB 370 – This bill by Senator Sanders would create the Personal Privacy Act. It would prohibit certain types of governmental entities from requiring individuals or 501(c)(3) organizations to provide personal information. Exempt from this provision is “Any report or disclosure required by the Nebraska Political Accountability and Disclosure Act”. The Executive Director recommended a position of neutral.

LB 405 – This bill by Senator Lowe would amend the merger of offices provisions of §17-20.02 which prohibits the merger of the office of trustee of a village with any other village position. That prohibition remains and clarifies that trustees may be paid additional compensation of seasonal or emergency work. The bill eliminates a current cross reference to the NPADA. The Executive Director recommended a position of support or neutral.

Discussion followed.

**Motion by Anderson, second by Hegarty, that the Commission adopt the positions suggested in the memorandum on pending legislation, that the Executive Director be allowed to testify on any of those positions whether they be supportive, neutral or opposing as at his discretion, and that the Commission authorize the Director and all staff to support LB 65, LB 83 and LB 294, take a neutral position as to LB 112, LB 195, LB 212, LB 213 and LB 370 and to support 405 with a recommendation to restore the cross reference to the NPADA – Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (7-0-0).**

**Motion by Sullivan, second by Carlson, that the Commission authorize the Director and staff to support LB 8** - Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Hegarty, Peetz and Sullivan voted yes. Commissioner Evnen abstained. Motion carried (6-0-1).

**Report of Conflicts Committee** – Commissioner Peetz indicated that there were no conflicts.

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

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

The NADC went into Closed Session at 10:24 a.m.

The NADC returned to Open Session at 11:35 a.m.

**Announcements from Closed Session** – Executive Director Daley announced the following actions taken by the Commission in closed session.

**Executive Director v. Jennifer Hernandez (20-09)** – 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, no civil penalty was assessed. The required statement is on file. The Commission approved the Settlement Agreement with seven Commissioners concurring, none dissenting and none abstaining.

**Executive Director v. Terry Schultz (20-25)** – Pursuant to a settlement agreement the Commission found a violation of §49-1493, failure to file a Statement of Financial Interests. No civil penalty was assessed. The required statement is on file. The Commission approved the Settlement Agreement with seven Commissioners concurring, none dissenting and none abstaining.

**Executive Director v. Bill Ehegartner (20-28)** – Pursuant to a settlement agreement the Commission found two violations of §49-1493, failure to file a Statement of Financial Interests. No civil penalty was assessed. The required statements are on file. The Commission approved the Settlement Agreement with seven Commissioners concurring, none dissenting and none abstaining.

**Executive Director v. Ronald Vlach (20-17)** – Pursuant to a settlement agreement, the Commission found three violations of §49-14,102, having a prohibited interest in a contract and three violations of §49-14,101.01, use of public office for financial gain. By the terms of the settlement agreement, the

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respondent will pay a civil penalty of \$250. The Commission approved the Settlement Agreement with seven Commissioners concurring, none dissenting and none abstaining.

**Adjournment – Motion by Peetz, second by Callahan, that the NADC adjourn.** Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Hegarty, Peetz and Sullivan voted yes. Motion carried (6-0-0).

Commissioner Peetz declared the meeting adjourned at 11:36 a.m.