

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

**Friday, June 4, 2021**  
**Room 1524 State Capitol**  
**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 Open Meetings Law.

Roll Call –

Roderic Anderson - Present  
Marty Callahan – Present  
Tom Carlson – Present  
Jeffery 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 April 16, 2021 Meeting** – Chairman Davis referred the Commissioners to their copies of the Open Session minutes of the previous meeting.

**Motion by Evnen, second by Enenbach, that the Open Session Minutes of the April 16, 2021 meeting be approved as presented** - Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Enenbach, Evnen, Hegarty, Peetz and Sullivan voted yes. Commissioner Davis abstained. Motion carried (8-0-1).

**Report on late filing fees and requests for relief: Action Now, Karen Blackstone** – Executive Director Daley indicated that Action Now Initiative had made a campaign contribution in May 2020. Late filing fees were assessed at \$21,000. A number of letters were sent requesting corrective action. The Director referred the Commission to a letter dated March 23, 2021 from Karen Blackstone, the representative for Action Now. She explained that due to the Covid-19 pandemic the Late Filing Fee Notices were not received because no one was working at the address at that time. Also, Ms. Blackstone further pointed out that the late fee was based upon the \$200,000 contribution. However, the committee refunded approximately \$148,000 to the contributor. Ms. Blackstone asked that the late filing fee be based upon the net contribution of \$48,000 instead of the original contribution of \$200,000.

Discussion followed.

**Motion by Evnen, second by Davis that the Commission reduce the late filing fee from \$21,000.00 to \$8,956.93** – Roll Call Vote: Commissioners Anderson, Carlson, Davis, Enenbach, Evnen, and Hegarty voted yes. Commissioners Callahan, Peetz, and Sullivan voted no. Motion carried (6-3-0).

**Report on late filing fees and requests for relief: First Westroads Bank, Chris Murphy** – Executive Director Daley indicated that First Westroads Bank made a campaign contribution of \$5,000. A Report of Political Contributions of a Corporation (NADC Form B-7) was due on August 10, 2020 and received on April 19, 2021. Late fees of \$750 were assessed. A request for relief from late filing fees was denied by the Executive Director because the amount of the contribution was \$5,000 and therefore did not qualify for relief under statutory provisions of the NPADA. It was noted that First Westroads Bank sent a letter dated May 19, 2021. It requested a waiver of the late fee for good cause shown. The filer noted that it had not made a campaign contribution since 1998. Mr. Daley confirmed that the bank had made no campaign contributions since 1998.

Discussion followed.

**Motion by Enenbach, second by Peetz, that the Commission reduce the late filing fees from \$750 to \$250** – Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (9-0-0).

**Report on late filing fees and requests for relief: Hilkemann for Legislature, Robert Hilkemann, candidate** – The Executive Director indicated that Senator Hilkemann had failed to file an Annual Campaign Statement. The filing was due February 1, 2021 and filed on March 19, 2021. A late filing fee of \$750 was assessed. A Request for Relief was denied because it showed more than \$5,000 in receipts or expenditures.

Senator Robert Hilkemann addressed the Commission and explained that his committee was transitioning from one treasurer to another and there was a miscommunication on the matter of the filing.

Discussion followed.

**Motion by Sullivan, second by Callahan, that the Commission reduce the late filing fees from \$750 to \$250** – Roll call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (9-0-0).

**Report on late filing fees and requests for relief: Collective Prosperity, David Lopez** – Executive Director Daley indicated that Collective Prosperity had made a campaign contribution of \$3,303,000.00 to Keep the Good Life Committee and was required to file an Out of State Contribution Report (NADC Form B-9). This report was due October 10, 2020 and filed February 24, 2021. Mr. Daley explained that the late filing fees for an out of state contributor's report are calculated at \$100 a day for the first ten days, and thereafter 1% of the amount contributed, not to exceed 10%. By this calculation a late fee of \$231,300.00 was assessed. The Executive Director denied the request for relief from Mr. Robert Phillips based upon the fact that the report showed expenditures of more than \$5,000.00.

Mr. David Lopez of Husch Blackwell appeared on behalf of Collective Prosperity. He submitted a written statement and addressed the Commission as to why the Commission should find good cause shown and waive or reduce the late fee.

Discussion Followed.

**Motion by Evnen, second by Anderson, that the Commission reduce the late filing fees from \$231,300.00 to \$23,130 to be accompanied by a sternly worded letter of reprimand to be composed by Executive Director Daley and approved by the Executive Committee** – Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enebach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (9-0-0).

**Report Ad Hoc Operation Review Committee** – Chairman Davis indicated that he would defer to Commissioner Hegarty for the Ad Hoc Committee report.

Mr. Hegarty indicated that the Ad Hoc Committee consisted of Commissioners Sullivan, Hegarty and Staff members, Daley, Danberg, and Hunter. The Committee met a number of times since January. The issues were broken into six categories for analysis, recommendation, and discussion.

Commissioner Sullivan indicated that the Ad Hoc Report was a productive process and allowed the Committee to dig deeper into what the law says and what the role of the Commission is in upholding the law. She continued that the Commission is about transparency in the campaign process and not about making criminals out of people. She added that ignorance is not an excuse for not abiding by the law.

Mr. Danberg indicated that he would address the first three points of the report. The first point is the Inconsistent Use of Names of Individual Contributors. The second point is that Street Addresses are not Consistently Used. Danberg noted that the same contributor may be listed under variations of his or her name on different reports. In addition, the same contributor may be shown at different addresses. Mr. Danberg reported that the new electronic system would enhance

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consistency in reporting. The names and addresses of those who had previously made contributions would have their names and addresses entered into a data base. A filer entering the name of a contributor would be presented with a drop-down box with the names and addresses of prior contributors. Danberg noted that the NPADA generally requires the “full name” of an individual contributor. The Committee takes the position that a full name consists of a first name and a last name and not necessarily a legal name. Danberg noted that the States of Iowa, Wyoming, Kansas and Missouri do not consider the inconsistent reporting of names to be a material issue.

The third issue is Joint Contributions. Mr. Danberg indicated that reports sometimes show a single contribution as being jointly from two individuals. The Committee believes that a so called joint contribution should be reported as being from one of the individuals or the other, but not both. In the alternative, the contribution can be apportioned between the two parties. He notes the current Treasurers Guide gives instructions about how to report such contributions.

Executive Director Daley reported on the issue of Unitemized Contributions. He explained that an unitemized contribution is a contribution of \$250 or less made to a candidate or committee. Mr. Daley continued that a filer is required to report the name and address of a contributor of more than \$250. The names and addresses of contributors of \$250 or less are not reported. The Issues Statement expressed concern that Nebraska had a high percentage of unitemized contributions compared to other states. Daley noted that the way to reduce the percentage of unitemized contributions is to lower the threshold at which names and addresses are to be reported. This would require a statutory change by the Legislature.

The Executive Director addressed the concern expressed in the Issues Statement about out of state PAC’s that operate in Nebraska, but are not registered. Daley stated that an early provision in the NPADA regulated out of state PACs. The provision was repealed in 1981. Other than the major out of state contributor statute (which excludes federal PACs) there is no requirement for an out of state entity to register in Nebraska. Any change would require legislation.

Daley addressed a number of other issues included in the report of the Ad Hoc Operation Review Committee.

Chairman Davis invited public comment.

Katherine High addressed the Commission.

Discussion followed.

**Motion by Enenbach, second by Anderson, that the Commission adopt the report and adopt the recommendations of the Ad Hoc team** – Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (9-0-0).

**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 the term of Commissioner Davis expires on June 30, 2021. Commissioner Davis is filling an unexpired term, and as such is eligible for reappointment. The appointment will be made at-large by the Governor.

Mr. Daley reported that the term of Commissioner Matthew Enenbach expires on June 30, 2021. He is not eligible for reappointment to the Commission. Mr. Enenbach's successor will be appointed by the Secretary of State from a list provided by the Nebraska Democratic Party.

Mr. Daley reported that the term of Commissioner Jeffery Peetz expires on June 30, 2021. Mr. Peetz is not eligible for reappointment. His successor will be named by the Secretary of State.

The Executive Director indicated that ten months into the current fiscal year, the Commission had expended approximately 62% of the agency budget. Mr. Daley noted that the agency is in a good fiscal situation.

The Executive Director reported that the electronic filing project relating to the campaign statements is expected to be launched in July. The program for Statements of Financial Interests was launched in February. He reported that 2,300 Statements of Financial Interests have been entered into the new system.

Executive Director Daley reported that the Lobbyist and Principal Reports for the 1<sup>st</sup> Quarter were due on May 30, 2021. Reports filed are available for review on the Clerk of the Legislature's website. Lobbyist Statements of Activity are due 45 days after the Legislature adjourned sine die.

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

Mr. Danberg indicated that in the matter of NADC v. Timothy Moore, the Commission's decision remains on appeal before the Nebraska Court of Appeals. The Attorney General's Office is representing the Commission on appeal.

Discussion followed.

**Legislative Update** - Executive Director Daley next reported on the Legislative Update.

LB 65 – This bill by Senator Williams was introduced at the request of the Commission. It corrects an inconsistency in §49-14,103.01 relating to public officials having an interest in a contract with their political subdivisions. The Director noted that paragraphs (4) and (6) of the provision are in conflict with each other. This bill was passed and signed by the Governor and will become law 90 days after sine die.

LB 83 – This bill by Senator Flood would permit governmental bodies, including state boards and commissions, to meet via “virtual conferencing”. That is, electronically or telephonically. Up to 50% of an agency’s meetings in a calendar year could be virtual. An executive order would not be required. This bill was passed and signed by the Governor.

Discussion followed.

LB 294 – This bill by Senator Flood would allow agency deputy directors to be removed from the classified personnel system. The main effect would be an agency would have more discretion on compensation. Currently, deputy directors receive the same standard across the board increases as any other state employee. This bill was advanced to General File by the Government Committee.

LB 405 – This is a bill by Senator Lowe that amends provisions of §17-209.02 which prohibits the merger of the office of trustee of a village with any other village position. That prohibition remains. However, it clarifies that trustees may be paid additional compensation for seasonal or emergency work. This bill has passed and signed by the Governor.

LB 489 – This is bill was introduced by Senator Michaela Cavanaugh. The original bill placed restrictions on state agencies when contracting for child welfare services. Senator Wayne added his name to the bill. Senator Cavanaugh withdrew her name. The committee amendment replaces the bill. As amended, the bill provides that no state agency official or employee can testify at a public hearing before the Legislature other than in a neutral position. The officials or employees must be on unpaid leave during the time of the hearing. The Executive Director recommended that the Commission oppose this bill. The bill as amended is on General File.

Discussion followed.

Commissioner Carlson was excused at 10:50 a.m.

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**Motion by Enenbach, second by Peetz, that the Commission oppose LB 489** – Roll Call Vote: Commissioners Anderson, Callahan, Davis, Enenbach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (8-0-0).

Commissioner Carlson returned at 10:55 a.m.

**Evaluation of Executive Director and setting of salary** – Chairman Davis indicated that he had prepared an instrument for evaluation of the Executive Director. The Chairman indicated that everyone on the Commission participated.

Chairman Davis asked if there were any further comments related to the evaluation. There were none.

Discussion followed.

**Motion by Peetz, second by Carlson, that the Commission adopt the summary of the performance review of the Executive Director as compiled by Mr. Davis** – Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (9-0-0).

Discussion followed.

**Motion by Evnen, second by Hegarty, to approve a salary increase of 2% for the Executive Director effective July 1, 2021** – Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz, and Sullivan voted yes. Motion carried (9-0-0).

Executive Director Daley expressed his gratitude for the kind review and salary increase.

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

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

**Closed Session - Motion by Peetz, second by Enenbach, 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, Hegarty, Peetz and Sullivan voted yes. Motion carried (9-0-0).

The NADC went into Closed Session at 11:03 a.m.

The NADC returned to Open Session at 11:57 a.m.

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

**Executive Director v. Ronald Hunter (#20-41)** – Based upon the record of an evidentiary hearing the Commission found that Ronald Hunter violated §49-1493 by failing to file a Statement of Financial Interests within 30 days after leaving his position on the Commission for Postsecondary Education. A civil penalty of \$1,000 and costs of hearing were assessed. The findings of the Commission and the assessment of penalty and costs were approved with nine Commissioners concurring, none dissenting and none abstaining.

**Executive Director v. Michael Hughes, and Hughes for Sheriff (#19-40 and #20-04)** – Pursuant to a settlement agreement the Commission found there was a violation of §49-1455(1)(e) and §49-1462 of the NPADA. By the terms of the agreement, the Respondents will pay a civil penalty assessed by the Commission of \$250 and an additional late filing fee of \$750. The Commission approved the settlement agreement with nine Commissioners concurring, none dissenting, and none abstaining.

**Executive Director v. Unity PAC, Michael Hughes, Treasurer (#19-41 and #20-05)** – Pursuant to a settlement agreement the Commission found there was a violation of §49-1455(1)(h) and §49-1462 of the NPADA. By the terms of the agreement, the Respondents will pay a civil penalty assessed by the Commission of \$250 and an additional late filing fee of \$750. The Commission approved the settlement agreement with nine Commissioners concurring, none dissenting, and none abstaining.

**Executive Director v. Nancy Schlotfeld (#20-10)** – Pursuant to a settlement agreement the Commission found 13 violations of §49-14,101.01 of the NPADA. The settlement agreement required restitution to Elkhorn Township in the total amount of \$32,050.00. The Commission approved the settlement agreement with nine Commissioners concurring, none dissenting, and none abstaining.

**Election of Officers** – Commissioner Peetz indicated that he had prepared a proposed slate of officers. He proposed Commissioner Jeffery Davis, Commissioner Kate Sullivan and Commissioner Doug Hegarty as Chairman, Vice-Chairman and Secretary, respectively. They have all agreed to serve in these positions for the coming year. There were no other nominations.

**Motion by Callahan, second by Anderson, to approve and accept Jeffery Davis as Chairman, Kate Sullivan as Vice-Chairman and Doug Hegarty as Secretary** – Roll Call Vote: Commissioner Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz and Sullivan voted yes. Motion carried (9-0-0).

**Recognition of the service of Commissioner Matthew Enenbach** –Mr. Daley noted that Commissioner Enenbach had been appointed by Secretary of State

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John Gale and began his term July 1, 2015. While on the Commission Enenbach has served as the Secretary, the Vice-Chair and the Chair. Daley stated that Commissioner Enenbach is a solid Commissioner who is always working and always thinking. The Executive Director Daley expressed his appreciation for his work and service to the Commission and presented him with an engraved clock as a token of esteem on behalf of the Commission.

**Recognition of the service of Commissioner Jeff Peetz** – Executive Director Daley stated that Jeff Peetz was appointed by Secretary of State John Gale and began his term July 1, 2015. Mr. Daley noted that Commissioner Peetz has served as the Secretary, the Vice-Chair and, on occasion, as the acting Chair. Daley stated that Commissioner Peetz always brought his lawyer skills to bear when analyzing matters before the Commission. Daley also noted that Peetz has a good understanding of rural Nebraska which has be a great benefit to the Commission. Executive Director Daley expressed his appreciation to Commissioner Peetz for his service to the Commission and presented him with an engraved clock as a token of appreciation on behalf of the Commission.

Discussion followed.

Commissioner Peetz expressed his appreciation and gratitude to the Commissioners for the opportunity to have served on the Commission.

**Adjournment – Motion by Enenbach, second by Peetz, that the NADC adjourn.** Roll Call Vote: Commissioners Anderson, Callahan, Carlson, Davis, Enenbach, Evnen, Hegarty, Peetz and Sullivan voted yes. Motion carried (9-0-0).

Chairman Davis declared the meeting adjourned at 12:12 a.m.