

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

Friday, October 21, 2022

Room 1510 State Capitol

Lincoln, Nebraska

Call to Order – Chairman Sullivan called the meeting to order at 9:03 a.m. and announced the location in the meeting room of a copy of the Open Meetings Law. She stated that notice of the meeting was posted on the Commission’s website and on the State’s Public Meeting Calendar.

Roll Call –

Roderic Anderson – Present
Ann Ashford - Present
Marty Callahan – Present
Tom Carlson – Present
Jeffery Davis - Present
Robert Evnen – Present
Douglas Hegarty – Excused
Kate Sullivan – Present

Approval of the Open Session Minutes of the August 12, 2022 Meeting – Chairman Sullivan referred the Commissioners to their copies of the Open Session minutes of the previous meeting.

Motion by Anderson, second by Evnen, that the Open Session Minutes as amended of the August 12, 2022 meeting - Roll Call Vote: Commissioners Anderson, Ashford, Callahan, Carlson, Davis, Evnen, and Sullivan voted yes. Motion carried (7-0-0).

Report on late filing fees and requests for relief: Husker Storage, LLC – Executive Director Daley indicated that this is a request for relief from Husker Storage, LLC. The Executive Director asked if there was anyone from Husker Storage present at the meeting. There were none. Mr. Daley continued that Husker Storage made four contributions of \$1,000 each to a candidate committee. It was required to file four Reports of Political Contribution (NADC Form B-7). The reports were due on November 10, 2021, April 11, May 10 and June 10, 2022. They were filed on July 25, 2022. Late filing fees of \$3,000 were assessed. A Request for Relief was partially granted and partially denied by the Executive Director. He reduced the late fee for the first filing from \$750 to zero and the late fee for the second filing from \$750 to \$25. Daley denied relief for the

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late fees assessed for the third and fourth late filings as they did not meet the criteria of the NPADA. The Executive Director indicated that after the late fee reduction, a balance of \$1,525 remained. He indicated that Husker Storage, LLC asking for Commission reconsideration of the Executive Director's decision.

Discussion followed.

There being no motion on the request for further relief, Secretary Evnen noted that the Commission was declining to take action and that the late filing fees remain at \$1,525.

Consideration and action on proposed Advisory Opinion #206 requested by David Derbin, Lancaster County Chief Administrative Officer, on behalf of Lancaster County Commissioner Christa Yoakum, regarding conflicts of interests – The Executive Director stated that formal Commission advisory opinions are authorized by statute and are binding upon the Commission until such time as the opinion is amended or revoked. A person who has received an opinion; has disclosed all material facts and who acts in accordance with the opinion, has a complete defense against allegations that he or she has violated the NPADA. Mr. Daley explained the procedure to be followed. The proposed opinion is presented to the Commission. The Commissioners have the opportunity to ask questions. Thereafter members of the public have the opportunity to express their opinions about the proposed advisory opinion. The Commission may vote to adopt the opinion as drafted; adopt an amended version of the advisory opinion; or to reject the opinion in its entirety.

Executive Director Daley indicated the proposed opinion was requested by David Durbin, who is the Lancaster County Chief Administration Officer on behalf of Lancaster County Commissioner Christa Yoakum. Commissioner Yoakum is employed by a non-profit corporation which occasionally does business with Lancaster County. Mr. Daley indicated that the question before the Commission is whether a county board member has a business association with a private non-profit corporation because she is employed by the corporation? The proposed opinion takes the position that she does not. Accordingly, she would not have a conflict of interest when matters involving her employer come before the board.

Executive Director Daley noted that no one was present to address the Commission as to the proposed opinion.

Discussion followed.

Motion by Davis, second by Evnen, that the Commission table the discussion in the matter of Advisory Opinion #206 until the December meeting – Roll Call Vote: Commissioners Anderson, Ashford, Callahan, Carlson, Davis, Evnen and Sullivan. Motion carried (7-0-0).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) - Executive Director Daley indicated that there are two vacancies on the Commission. A successor for Commissioner Hegarty was selected. It was subsequently discovered that as a public school teacher, he is not eligible to serve. Daley reported that he had spoken with Mr. Hegarty who expressed willingness to serve until a successor is appointed. Mr. Daley reported that a Staff Auditor position remains vacant. He noted there have been no applications.

Discussion followed.

The Executive Director announced that the conference of the Council on Governmental Ethics Laws (COGEL) is scheduled for December 4 through 7 in Montreal. Deputy Director Hunter and Mr. Daley will attend the conference this year. The Commission is a founding member of COGEL focuses on campaign finance laws, lobbying, and governmental ethics laws.

Executive Director Daley indicated that the 3rd Quarterly Lobbyist and Principal Reports are due on October 31st. Those statements that are filed are available to the public for review on the Clerk of the Legislature's website.

The Executive Director next reported that 1st General Election Campaign Statements were due on October 11, 2022. Those filed are available for review in the First Tuesday system. The 2nd General Election Campaign Statements are due on October 31, 2022.

2023 Legislative Session

a) Discussion of proposed or anticipated legislation- Executive Director Daley reported that Legislative Session begins on January 4th 2023. He indicated that he had been approached by someone who was interested in lowering the contribution reporting threshold for political parties from more than \$250 to \$200 or more. The rationale for the change is an IRS regulation that requires certain types of reporting by local political parties. The committees are exempt if the state has a reporting threshold of \$200 or less for contributions and \$500 or less for expenditures. The Executive Director indicated that the Commission might not object if the \$200 or more threshold were applied to contributions to and expenditures by all filers including political party committees, candidates, B-7 filers and PACs. He pointed out that making the contribution and expenditure thresholds different would only be confusing to filers and staff.

Discussion followed.

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b) Review and discussion of process for addressing legislative matters- Mr. Daley reported that Legislators and staff often ask the Commission staff for assistance with drafting legislation related to the NPADA. In Resolution 19-01, the Commission authorized the staff to provide this technical assistance on request. He also noted that if the Commission staff needs direction as to legislation, it consults with the Executive Committee.

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

Report of Executive Committee – Commissioner Sullivan indicated that there are no issues to report.

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

The NADC went into Closed Session at 10:05 a.m.

The NADC returned to Open Session at 10:37 a.m.

Announcements from Closed Session – Executive Director Daley announced the following actions taken by the Commission in closed session. He stated that in the matter of Tim Kusek (#22-26) the Commission approved a settlement agreement where it found a violation of §49-1499.03(2)(a) and assessed a civil penalty of \$175.00.

Adjournment – Motion by Evnen, second by Carlson, that the NADC adjourn. Roll Call Vote: Commissioners Anderson, Ashford, Callahan, Carlson, Davis, Evnen, and Sullivan voted yes. Motion carried (7-0-0).

Chairman Sullivan declared the meeting adjourned at 10:45 a.m.