

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
Friday, March 6, 2015
State Capitol, Room 1525
Lincoln, Nebraska

Call to Order – Chairman Brostrom 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 –

Kevin Brostrom – Present
Sean Conway - Present
John Gale – Present
Joseph Grant – Excused for late arrival
Paul Hosford – Excused
Andrew Loudon - Present
Jan Mumm - Present
Timothy Schulz - Present
Brad von Gillern - Present

Approval of the Open Session Minutes of the January 16, 2015 Meeting – Chairman Brostrom referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Gale, second by Conway, that the Open Session Minutes of the January 16, 2015 meeting be approved as presented - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Mumm, and Schulz voted yes. Commissioners Loudon and von Gillern abstained. Motion carried (5-0-2).

Report on Late Filing Fees, including requests for relief - Executive Director Daley indicated that there were no applications for relief.

Request for modification of filing requirements of Statements of Financial Interests: Merry Wills and Jessica Estes of the Nebraska Crime Commission - Executive Director Daley indicated that two employees from the Nebraska Crime Commission have requested a modification of the filing requirements as to their annual Statement of Financial Interests (NADC Form C-1) filings. Mr. Daley noted that both are Federal Aid Administrators for the

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Nebraska Crime Commission and that as such both are required to file C-1. Ms. Wills has been a victim of identity theft. She asks to be permitted to leave out information, such as personal address, business associations and certain other financial information. The second request is from Ms. Estes who was a victim of violent crime. Her request is that she be permitted to leave out her address, business associations, and other identifying information. The Commission does have the authority pursuant to §49-14,129 to modify the filing requirements of the NPADA if there is good cause shown; if the Commission finds that the literal application of the NPADA might cause an unreasonable hardship; and if the modification would not frustrate the purposes of the NPADA.

Discussion followed.

Motion by Schulz, second by Mumm, pursuant to §49-14,129 that the Commission modify the filing requirements of Merry Willis as to her annual Statement of Financial Interests such that she may withhold from her annual statements: a) the identity of business associations; b) financial institutions where she does business; and c) other identifying financial information. In support of the motion the Commission finds good cause has been shown for the modification of filing requirements; that the literal application works a manifestly unreasonable hardship; and that a modification would not frustrate the purpose of the NPADA - Roll Call Vote: Commissioners Brostrom, Conway, Grant, Loudon, Mumm, and Schulz voted yes. Commissioners Gale and von Gillern voted no. Motion carried (6-2-0).

Discussion followed.

Motion by Schulz, second by Mumm, pursuant to §49-14,129 that the Commission modify the filing requirements of Jessica Estes as to her annual Statement of Financial Interests such that she may withhold from her annual statements: a) the identity of business associations; b) financial institutions where she does business; and c) other identifying financial information. In support of the motion the Commission finds good cause has been shown for the modification of filing requirements; that the literal application works a manifestly unreasonable hardship; and that a modification would not frustrate the purpose of the NPADA - Roll Call Vote: Commissioners Brostrom, Conway, Grant, Loudon, Mumm, and Schulz voted yes. Commissioners Gale and von Gillern voted no. Motion carried (6-2-0).

Chairman Brostrom noted for the record that Commissioner Grant arrived at 9:03 a.m.

Discussion followed.

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley indicated that

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Commissioner Hosford's term ended on June 30, 2014 and holds over his office until a successor is appointed by the Governor. Mr. Daley further reported that every six years the Commission has three members whose terms end at the same time. In June the terms for Commissioners Brostrom, Grant and Mumm will end. Executive Director Daley indicated that Commissioners are appointed by the Governor and the Secretary of State and that the Commission will need Republican, Democratic and Independent nominees from the 1st, 2nd and 3rd Congressional Districts. The Executive Director asked the Commissioners to forward to him the names of any individuals they believe would make good Commissioners.

Executive Director Daley indicated that the Commission is now 7 months into the current budget year and has expended approximately 26% of its budget.

The Executive Director noted that the Commission's budget hearing is scheduled for this afternoon before the Appropriations Committee.

The Executive Director indicated that the electronic filing project had submitted its request of proposals to the Department of Administrative Services Materiel Division and will be released within the next few weeks.

The Executive Director reported that the Annual Campaign Statements have been filed and those statements filed are now available for review on the Commission website. The 1st Primary Statements for the Lincoln City Elections are due on March 9th, and will be available on the Commission website

The Executive Director next reported that 4th Quarter Lobbyist and Principal Reports that disclose receipts and expenditures were due on January 30th. Those reports are available for review on the Commission website. Mr. Daley noted that the transition from paper to electronic filing seems to be going quite well.

The Executive Director indicated that in the area of litigation, General Counsel Danberg would report on matters.

General Counsel Danberg indicated in the matter of the Rolland Skinner (10-15) and Les Tlustos (10-16) cases. Mr. Danberg indicated that the Commission is expecting a brief from the respondents. Thereafter, the Commission has four weeks to file its brief. In early May oral arguments will take place before the District Court of Lincoln County.

Mr. Danberg next reported that the brief in Fred Conley v. R. Scott Japp (14-01) from Mr. Japp is due on May 11th.

Legislative Update – Executive Director Daley next discussed the legislative bills that will affect the Commission.

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LB 166 – This bill by Senator Crawford would require all political committees, with the exception of political party committees, to submit annual bank statements showing the balance of the committee account as of December 31st. This bill would clarify that candidate committees could not make loans. It would increase maximum civil penalty the Commission may impose from \$2,000 to \$5,000. Finally, it would permit the Commission to order restitution where appropriate. Commission Staff testified at the hearing before the Government Committee. Mr. Daley explained that there seemed to be a concern regarding the bank statement provision of LB 166. Consequently, discussion between objectors, committee sponsors and the committee chair resulted in the Committee Chair requesting Mr. Daley to draft an amendment to the bill. This amendment would require committees to authorize the Commission to secure their bank balances directly from the bank. The amendment was sent to Senator Crawford and then on to the bill drafter's office. The bill is pending before the Government Committee.

Discussion followed.

LB 462 – This is a bill that arises directly out of the Skinner and Tlustos cases. This bill attempts to define the term 'campaigning' for the purpose of the prohibition of public officials' and public employees' use of public resources. The effect of the bill is to pull into the definition of campaigning, some things which would not currently be considered campaign activity. It would exclude from the definition of campaigning some things that would currently be considered campaigning. This bill is pending before the Government Committee.

LB 400 – This bill would change the annual filing date for Statements of Financial Interests from April 1st to March 1st. It would also change the process by which candidates file for office. Currently, when a candidate files for office he or she is required to file a Statement of Financial Interests with the Secretary of State or the County Election Commissioner. Under this bill the candidate's would then be due within 5 days after March 1st and filed with the Commission. If it is not, the candidate's name would not appear on the ballot. This bill has advanced to General File.

LB 606 – This bill creates the position of Inspector General for the Department of Corrections. The purpose is to insure that information is relayed back to the Legislature and to insure that issues in the Department of Corrections are addressed. The Commission has no interest in this aspect of the bill. However, there was a provision within the bill that would make a significant change to the Administrative Procedures Act. The Administrative Procedures Act is a body of law that affects all state agencies. Senator Mello indicated that a number of state agencies had made contact regarding this and the Senator agreed that the bill did not need this provision. He asked the committee to delete it.

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Executive Director Daley noted that the Administrative Procedures Act was created in the 1940's and amended piecemeal throughout the years. A rewrite might be appropriate. Mr. Daley contacted Senator Mello and offered the assistance of the Commission if Senator Mello is interested in a rewrite.

Report of Conflicts Committee – Commissioner von Gillern indicated that there were 17 Potential Conflict of Interest filings received and all were responded to by the Commission staff. There do not appear to be any issues to report.

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

Closed Session - Motion by Schulz, second by Conway that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Loudon, Mumm, Schulz, and von Gillern voted yes. Motion carried (8-0-0).

The NADC went into Closed Session at 9:55 a.m.

The NADC returned to Open Session at 10:14 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated there was one matter from Closed Session. In the matter of Dave Heineman case 14-09 the Commission adopted a settlement agreement with seven Commissioners concurring, none dissenting, and none abstaining. The Commission found that the respondent had violated section 49-14,101.01(2) of the NPADA. By the terms of the settlement agreement the respondent will make restitution to the State of Nebraska in the amount of \$250.

Adjournment – Motion by Mumm, second by Loudon that the NADC adjourn. Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Loudon, Mumm, Schulz, and von Gillern voted yes. Motion carried (8-0-0).

Chairman Brostrom declared the meeting adjourned at 10:15 a.m.