

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

Friday, April 8, 2016

State Capitol, Room 1524

Lincoln, Nebraska

Call to Order – Chairman Schulz 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 –

Sean Conway – Present
Jeffery Davis - Present
Matthew Enenbach – Present
John Gale – Excused
Andrew Loudon - Present
Jeffery Peetz - Present
Timothy Schulz - Present
Brad von Gillern – Present
James Ziebarth – Absent

Introduction and Welcome of new Commissioner Jeffery Davis – Chairman Schulz asked Executive Director Daley to introduce and welcome new Commissioner Jeffery Davis. Commissioner Davis is from Beatrice where he lives with his wife and children. He is an attorney with the law firm of Smith Schafer Davis & Gaertig and practices transactional and estate planning law. Mr. Davis is very involved with his community at the Beatrice Area Chamber of Commerce, the Society of St. Vincent DePaul, Kiwanis Club and Gage County United Way. He is also a violinist with the Beatrice Regional Orchestra and an occasional organist at his church. Chairman Schulz welcomed Commissioner Davis on behalf of the Commission.

Approval of the Open Session Minutes of the January 15, 2016 Meeting – Chairman Schulz referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Conway, second by Peetz, that the Open Session Minutes as of the January 15, 2016 meeting be approved as presented - Roll Call Vote: Commissioners Conway, Enenbach, Loudon, Peetz, and Schulz voted yes. Commissioners Davis and von Gillern abstained. Motion carried (5-0-2).

Report on late filing fees and requests for relief: The Executive Director indicated that there were no requests for relief.

Request for modification of filing requirements of Statement of Financial Interests – Jessica Estes – The Executive Director indicated that this is a request from Jessica Estes for a modification her requirement to file an annual Statement of Financial Interests (NADC Form C-1). Ms. Estes is currently a Federal Aid Administrator for the Nebraska Commission on Law Enforcement and Criminal Justice. Mr. Daley explained that she had been the victim of domestic violence and continued threats of domestic violence. In addition, Ms. Estes is a former employee of the Nebraska Military Department. She has been notified by the Department of Homeland Security that certain of its records had been hacked. This incident resulted in the breach of all of her personal information including name, address, fingerprints and other identifying information. She wished to withhold information required by sections 9 and 10 of Form C-1.

Discussion followed.

Motion by Loudon, second by von Gillern, move that pursuant to Revised Nebraska Statute §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 statement the information required in sections 9 and 10 on Form C-1 including the identity of financial institutions at which she does business and other holdings with a value of more than a \$1,000 and creditors to whom more than a \$1,000 was owed or guaranteed. In support of this motion the Commission find Good Cause Shown for the modification of filing requirements and that the literal application of the requirement would cause a manifestly unreasonable hardship and that a modification would not frustrate the purpose of the NPADA- Roll Call Vote: Commissioners Conway, Davis, Enenbach, Loudon, Peetz, Schulz and von Gillern voted yes. Motion carried (7-0-0).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – The Executive Director reported that newly introduced Commissioner Davis has been appointed by the Governor to succeed Tim Hruza, who for two weeks succeeded Kevin Brostrom. Daley noted that Governor Ricketts had also appointed Douglas Haggerty of Omaha to succeed Commissioner von Gillern, whose term will expire at the end of June. Following a confirmation hearing before the Government Committee, their names have been forwarded to the full Legislature with a recommendation for confirmation of the appointments. Mr. Daley indicated that Commissioner Ziebarth's appointment was also being forwarded to the Legislature for

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confirmation. The forwarding of Commissioner Ziebarth's name had been delayed due to a Government Committee oversight.

Executive Director Daley referred the Commissioners to their packets for information on the current budget status.

The Executive Director reported on the status of the Electronic Filing Project. He expressed his thanks to staff members David Hunter and Serena Dunn for the many hours of meticulous effort spent working with Quest on the electronic filing system.

The Executive Director reported that Lobbyist and Principal Reports that have been filed are available for review on the Commission website. The 1st Quarter reports are due on April 30th.

Executive Director Daley reported that the Primary Election is May 10th and that the first Primary Campaign Statements are due on Monday, April 11th. Campaign Statements that have been filed are posted on the Commission website and available for review.

The Executive Director indicated that there is one matter in litigation and he would defer to General Counsel Danberg.

General Counsel Danberg reported on the Michael Meister case. Meister's law firm had failed to timely file a required report disclosing a campaign contribution. This resulted in the assessment of late filing fees. Mr. Meister had appeared before the Commission seeking a waiver or reduction of the late fees, but the Commission had denied his request. Mr. Danberg indicated that the Commission has now filed suit in Lancaster County District Court to collect the unpaid late filing fees.

Discussion followed.

Legislative Update - The Executive Director next reported on the Legislative update.

LB 400 - This bill was requested by several county election officials and the Secretary of State. The bill requires candidate to file Statements of Financial Interests with the Commission (not the filing officer) within 5 days after March 1st. If it is not filed, the person's name will not appear on the ballot. In addition, it changes the filing deadline for filing the annual Statement of Financial Interests from April 1st to March 1st. The bill is on Final Reading.

LB 867 – This bill would amend the Administrative Procedures Act which governs the rule and regulation process which state agencies follow, and the process by which contested cases are handled. Mr. Daley indicated that this bill would create

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processes for emergency rules and regulations and would require the agency to label certain things as advisory documents to distinguish them from rules and regulations. The bill is on Final Reading.

LB 166 – This would increase the maximum civil penalty the Commission could assess from \$2,000 to \$5,000. It would give the Commission the authority to order restitution in cases where it was appropriate and it would clarify that a candidate committee may not make loans. Daley stated that the controversial aspect of LB 166 is that it requires political committees, except political party committees, to submit a statement from the bank or financial institution on an annual basis disclosing the balance of the committee account. The bill is currently being held in committee.

Discuss process for Commission Elections at June meeting – Chairman Schulz announced that Commissioner von Gillern has agreed to prepare a slate of candidates for Commission officers for the June meeting. The Chairman also asked Executive Director Daley to explain the Commission Officers' terms.

Executive Director Daley indicated that the Commission Chairman can serve up to two consecutive terms. The Vice-Chair can also serve up to two consecutive terms. There are no restrictions on the terms of the Secretary. To be considered for the position of Chairman, a commissioner must have served at least two years on the Commission. For the Vice-chairman a commissioner must have served one year on the Commission. There are no restrictions for the position of Secretary.

Discussion followed.

Discuss process for the Executive Director's evaluation – Chairman Schulz announced that he would again head the process for the evaluation of the Executive Director. The Chairman explained that he would draw up an evaluation instrument that would give each Commissioner the opportunity to comment on the performance of the Executive Director.

Discussion followed.

Report of Conflicts Committee – Chairman Schulz indicated that there were no challenges to report.

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

Closed Session - Motion by Loudon, second by Conway, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Loudon, Peetz, and Schulz voted yes. Motion carried (7-0-0).

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The NADC went into Closed Session at 9:25 a.m.

The NADC returned to Open Session at 9:55 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated there were none to report

Adjournment – Motion by Enenbach, second by Conway, that the NADC adjourn. Roll Call Vote: Commissioners Conway, Davis, Enenbach, Loudon, Peetz, Schulz and von Gillern voted yes. Motion carried (7-0-0).

Chairman Schulz declared the meeting adjourned at 9:56 a.m.