

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

Friday, June 12, 2015
State Capitol, Room 1524
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 - Present
Paul Hosford – Present
Andrew Loudon - Present
Jan Mumm - Present
Timothy Schulz - Present
Brad von Gillern - Present

Approval of the Open Session Minutes of the March 6, 2015 Meeting – Chairman Brostrom referred the Commissioners to their copies of the Open Session Minutes of the previous meetings.

The Executive Director indicated that Commissioner von Gillern had pointed out an error in the Open Session minutes, page 5, agenda item Action on or Announcement on Closed Session matters, regarding the commission vote. It should read “seven Commissioners concurring, none dissenting, none abstaining, and one recused.”

Motion by Grant, second by Mumm, that the Open Session Minutes as amended of the March 6, 2015 meeting be approved as presented - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Loudon, Mumm, Schulz and von Gillern voted yes. Commissioner Hosford abstained. Motion carried (8-0-1).

Consideration and action on proposed Advisory Opinion #201 requested by Paul E. Sullivan on behalf of the Council of State Governments Justice Center – Executive Director Daley indicated that this a proposed advisory opinion based upon a request from the Council of State Governments Justice Center. The Justice Center is a non-profit tax exempt organization that interacts with state governments for the purpose of analysis and study of policies that deal with public safety. In 2014 the Legislature passed LB 907 which created the Nebraska Justice Reinvestment Working Group. This group was to contract with the Justice Center to do a study and analysis of the state prison and justice systems. The study was submitted to the Legislature and formed the basis of LB 605 which was introduced during the 2015 legislative session. During the 2015 session the Council of State Governments Justice Center had several registered lobbyists. They promoted LB 605 which passed and is now law. The question is whether the proposed activities of the Justice Center subsequent to the passage of LB 605 require the registration of a lobbyist. The proposed activities include assisting in the development of building plans, the training of state staff and the development of appropriate rules and regulations pursuant to LB 605. Daley explained that §49-1433 of the NPADA defines lobbying as the practice of promoting or opposing for another person the introduction or enactment of legislation or resolutions before the Legislature. The act further defines principal as a person who authorizes a lobbyist to lobby on behalf of that principal and lobbyist as a person who is authorized to lobby on behalf of a principal. The Executive Director indicated that the proposed advisory opinion takes the opinion that the activities of the Council of State Governments Justice Center of seeking and procuring government contracts with executive branch agencies does not constitute lobbying and does not require the registration of a lobbyist.

Discussion followed.

Chairman Brostrom asked if there were comments from the public as to the proposed opinion. No one came forward to comment.

Motion by Conway, second by Hosford, to adopt proposed Advisory Opinion #201 - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, Schulz and von Gillern voted yes. Motion carried (9-0-0).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley announced that Governor Ricketts has appointed Timothy Hruza of Grand Island as Commissioner Brostrom's successor. Secretary of State John Gale has appointed Matthew Enenbach of Omaha as Commissioner Grant's successor and Jeffrey Peetz of Lincoln as Commissioner Mumm's successor. Executive Director Daley reported that Commissioner Hosford's successor has yet to be appointed by the Governor.

Discussion followed.

Executive Director Daley referred the Commissioners to the report of the Commission's current fiscal status. He noted that the fiscal year for the Commission ends on June 30th.

The Executive Director announced that bids for the Commission's electronic filing project had reviewed and Quest Information Systems of Indiana has been selected. A contract will be signed sometime in the month of July.

Discussion followed.

Executive Director Daley indicated that the Post General Election Campaign Statements for the Lincoln City Elections are due on Monday June 15th.

The Executive Director noted that Common Cause Nebraska had issued a report entitled Getting Elected In Nebraska - What it Took To Win in 2014. A copy of this report was provided to the Commissioners.

The Executive Director reported that 2nd Quarter Lobbying and Principal Reports are due on July 30th and will be available on the Commission website.

Executive Director Daley indicated that on matters of litigation, he would defer to General Counsel Danberg.

General Counsel Danberg reported the matter of Scott Japp is currently pending before the Court of Appeals. Mr. Japp had appealed the order the Commission had obtained for him to comply with subpoena. Mr. Danberg indicated that a request for a 3rd extension of their brief date was received. Mr. Japp's attorney had cited various personal issues as the basis for the extension.

General Counsel indicated in the matter of Rolland Skinner (10-15) and Les Tlustos (10-16), a hearing has been rescheduled to July 7th before the District Court of Lincoln County.

REVIEW FOLLOWING PARAGRAPH

Motion by Gale, second by Hosford, that the Executive Committee as soon as possible provide a full report to the board with regard to the competitive bid process for the operating system and including the number of bidders the nature of the programs being proposed and the cost and the evaluation process and the points provided to the bidders and ultimate approval process of the winning bid – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, Schulz and von Gillern voted yes. Motion carried (9-0-0).

Legislative Update (Review of legislative action during the 2015 session) – Executive Director Daley next gave the legislative update of bills. He stated that with two exceptions, all of legislative bills are either being held in committee or have been indefinitely postponed.

Daley explained that one of the bills that advanced from committee is LB 400 which was introduced by Senator Smith. This bill would change the annual filing dates for Statements of Financial Interests from April 1st to March 1st. It would also change the process for filing Statements of Financial Interests by candidates. The bill has not been debated on General File.

Discussion followed.

Consideration of policy for modifying the filing requirements of §49-1493 – Executive Director Daley indicated that this is an initial step in the development of standards for the Commission to follow when there is a request to modify the filing requirements for Statements of Financial Interests. Daley reminded the Commission of the discussion which had taken place at the last meeting. At that meeting two individuals requested a modification of the filing requirements for their Statement of Financial Interests. One had been a victim of domestic abuse and the other had been a victim of identity theft.

These are examples of what might constitute good cause and standards to follow.

1. The filer can demonstrate a reasonable basis for believing that disclosure of specified information will result in physical harm to himself or herself, a member of his or her immediate family, or member of the filer's household;
2. The filer can demonstrate a reasonable basis for believing that specific information disclosed will be used for the purpose of committing a financial crime against the filer;
3. The duties of the position held by the filer no longer meet the criteria of §49-1493(13);
4. The filer is temporarily unable to file due to illness, injury, hospitalization, physical or mental incapacity; or
5. The filer is deceased.

Discussion followed. The matter is to be considered at the next meeting.

Resolution to commence rulemaking process: Title 4, Chapter 6, Rules and Regulations – Executive Director Daley reported on Commission Rule 6, Rules

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and Regulations for Lobbying. He stated that beginning January 1, 2015 lobbyists and principals are required by law to make all filings electronically. These filings include Registration, Lobbyist and Principal Quarterly Reports, Statements of Activity and any other lobbying and principal reports. Mr. Daley pointed out that Rule 6 currently refers to paper forms and written statements. The rule needs to be updated to reflect current statute.

Discussion followed.

Motion by Hosford, second by Grant, to commence rulemaking process for Title 4, Chapter 6 - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, Schulz and von Gillern voted yes. Motion carried (9-0-0).

Resolution to commence rulemaking process: Title 4, Chapter 10, Rules and Regulations Governing Campaign Practices - Executive Director Daley reported that during the 2014 Legislative session, certain reporting triggers under the NPADA were changed beginning in 2015. For example, the reporting trigger of \$250 or more was changed to more than \$250. The rule needs to be updated to reflect the current statute.

Discussion followed.

Motion by Conway, second by Grant, to commence the process of rulemaking for Title 4, Chapter 10 – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, Schulz and von Gillern voted yes. Motion carried (9-0-0).

Report of Transition Plan Subcommittee – Commissioner von Gillern reported that the members of the subcommittee had reviewed the processes of the Transition Plan and were quite satisfied with the level of preparation that was in place.

Discussion followed.

Evaluation of Executive Director and setting salary – Chairman Brostrom reminded the commissioners that the evaluation could be conducted in either Open or Executive Session.

Discussion followed.

Motion by Mumm, second by von Gillern, that the Commission accept the evaluation of the Executive Director as compiled by Mr. Schulz – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, Schulz and von Gillern voted yes. Motion carried (9-0-0).

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Chairman Brostrom announced to the commission members and meeting audience that an evaluation of the Executive Director had been compiled and distributed to the members of the Commission. No proposed corrections had been received.

Jack Gould of Common Cause Nebraska expressed his appreciation for the NADC Staff and Executive Director Daley.

Discussion followed.

Motion by Grant, second by Loudon, that the Commission approve a 3% salary increase for the Executive Director beginning July 1, 2015 - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Loudon, and von Gillern voted yes. Commissioners Hosford, Mumm, and Schulz voted no. Motion carried (6-3-0).

Report of Conflicts Committee – Commissioner Mumm indicated that there were 23 Potential Conflict of Interest reports filed. None required any further action.

Discussion followed.

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

Closed Session - Motion by Schulz, second by Mumm, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Loudon, Mumm, Schulz and von Gillern voted yes. Motion carried (9-0-0).

The NADC went into Closed Session at 10:06 a.m.

During Closed Session Commissioner Loudon was excused.

The NADC returned to Open Session at 11:50 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated that in the matter of Team Chadron case #14-39 the Commission approved a settlement agreement with eight Commissioners concurring, none dissenting, and none abstaining. The Commission found that there was a violation of §49-1449, and §49-1474.01. It assessed a civil penalty of \$1,000 and noted a late filing fee of \$1,000 was also due. The respondents Werner, Bannan and Coates were dismissed from the complaint. In the matter of Ruth Gray case #14-40 the Commission approved a settlement agreement in which it found a

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violation of §49-1493 with eight Commissioners concurring, none dissenting, and none abstaining. The settlement agreement provided for no civil penalty.

Election of Officers – Chairman Brostrom stated that he had prepared a slate of officers. He proposed Commissioner Tim Schulz, Commissioner Sean Conway and Commissioner Andrew Loudon as Chairman, Vice-Chairman and Secretary respectively. Chairman Brostrom asked if there were any other nominations, there were none.

Motion by Mumm, second by von Gillern, to approve and accept the proposed slate of new executive officers Tim Schulz, Chairman, Sean Conway as Vice-Chairman and Andrew Loudon as Secretary – Roll Call Vote: Commissioner Brostrom, Conway, Gale, Grant, Hosford, Mumm, Schulz, and von Gillern voted yes. Commissioner Loudon was excused. Motion carried (8-0-0).

Recognition of the service of Commissioner Kevin Brostrom, Commissioner Joseph Grant and Commissioner Jan Mumm – Executive Director Daley deferred to Commissioner Hosford who expressed his heartfelt words of appreciation to Commissioners Kevin Brostrom, Joseph Grant and Jan Mumm. Secretary of State Gale expressed his appreciation for their public service to the State of Nebraska and the Commission. Secretary Gale presented each with a Service Citation and a paperweight displaying the Great Seal of Nebraska.

The Executive Director on behalf of the Commission thanked the three Commissioners for their service to the Commission and presented each with a commemorative clock as a token of appreciation to Commissioners Brostrom, Grant and Mumm.

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

Chairman Brostrom declared the meeting adjourned at 12:05 p.m.