



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:30 a.m.
January 23, 2014

MINUTES – REGULAR MEETING

Evergreen Plaza Building, Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Amit Ranade, Chair
Grant Degginger, Vice Chair
Barry Sehlin, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director
Linda Dalton, Sr. Assistant Attorney General
Lori Anderson, Communications & Training Officer
Michael Smith, Chief Technology Officer
Phil Stutzman, Director of Compliance
Kurt Young, Compliance Officer
Jacob Berkey, Compliance Officer
Nancy Coverdell, Executive Assistant

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Amit Ranade at 9:30 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Opening Comments

Chair Ranade called the meeting to order.

Citizen Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

Chair Ranade announced that Governor Inslee appointed Katrina Asay to serve as the fourth member of the Public Disclosure Commission. Her term is scheduled to begin on February 3, 2014, and run through 2017. She is a former state representative from the 30th legislative district.

The Chair and the other Commissioners are thrilled she will be joining the Commission. Commissioner Turner commented that she is happy Ms. Asay will be joining the Commission as she has served with her in past.

Commissioner Turner asked a clarifying question regarding the voting procedures to pass items on the agenda when just three members are present.

Commissioner Turner specifically inquired about the approval of the December 5, 2013, minutes, since she was not present at that meeting.

Chair Ranade delayed approval of the minutes until referring to Sturgis, the Board's reference for parliamentary procedure, and moved to rulemaking.

Rulemaking

Update on Lobbyist Reporting of Entertainment, Food and Beverage

Lori Anderson, Communications and Training Officer, continued a previous discussion on lobbyist-related entertainment and how it is reported. This discussion started when lobbying related forms were changed and comments were shared by stakeholders about the difficulty of reporting entertainment expenses. A stakeholder meeting followed and comments were summarized at the last Commission meeting. The stakeholders agreed that reporting could be simpler when reporting entertainment expenses and receptions should be reported differently from other entertainment. There was also a discussion about an alternative for reporting the "in-between" event that is not an actual reception, but larger than a small meal with just a couple or few people. Comments were received about how difficult it is to track a per person cost in those situations. The Commission had asked PDC staff to conduct additional research and report back on alternatives for disclosing receptions that have been enacted in other states, as well as some comparisons on how public agencies are reporting lobbying versus the private sector.

Ms. Anderson further reported that Ms. Doyle was invited to the Legislative Ethics Board to report on the progress in this area. The Board pointed out that they monitor the frequency in which members are given food and beverage and the PDC lobbying reports are their vehicle to monitor those occasions.

The task of researching the reporting of receptions enacted in other states showed that half the states around the country have alternative methods for reporting receptions. The most common method is used when an entire body is invited to the event (in

most cases it's the entire legislature, in some cases it's either chamber or legislative committee, or a task force, but they designate what a body is). Other states use timing, whether the event is happening during the regular session, or how many times someone can hold an event in a calendar year. A few states required advanced notice, not only for the people being invited, but also to their equivalent of the PDC. Some states set a minimum number of people that would qualify to be a reception and other states have an amount spent as criteria. In those cases, they still require the cost to be reported, but in most cases not a per person cost, just an overall cost.

In regards to public agency lobbying and how entertainment is reported, Ms. Anderson reported that there is a statutory prohibition on public agencies spending money on gifts. They can lobby directly, but they cannot spend public funds on gifts. In the past, the Commission determined food and beverage are included in gifts. There is a current interpretation that talks about different types of gifts and that was enacted by the Commission after the Ethics Act was passed because the Act only talks about gifts and not entertainment. When public agencies lobby, they have a casual lobbying exemption so they can lobby up to four days without having to report their activities. In the casual lobbying exemption, it also says that if non-public funds are spent for gifts, then that activity must be reported. The private sector reports and itemizes at more than \$25. The public agencies report and itemize when the non-public funds are more than \$15.

After providing research the Commission requested staff inquired whether or not the Commission wants to consider adjusting the thresholds. The other next steps are whether or not to pursue legislation to allow for alternative disclosure of receptions or other types of entertainment and whether or not to pursue legislation that would change the per person attribution. The staff has suggestions on the per person attribution after hearing the stakeholder comments, which could include a disclosure range

similar to the personal financial statements, by picking a dollar range for the per person attribution. This could be a reasonable approach if the dollar ranges were small enough and would make it easier for lobbyists to report events. A different way to report entertainment costs could be through a separate entertainment schedule, which could currently supplement the current L-2 report.

The Commission commented they are interested in adjusting the thresholds but also want to see what the legislature does in the session.

Expedited Rulemaking for Adding Website Address to Forms

Ms. Anderson stated when making approved changes to the lobbyist forms it was noted in the text of the rule that you can find the forms at our physical address or the PDC website. The staff would like to make the same change to all the other reporting form rules by adding the website information through expedited rulemaking which is allowed for such housekeeping amendments. If the Commission agrees, there would be no further action needed by the Commission.

Motion 14-045

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission direct staff to move forward with expedited rulemaking to add the PDC website information to the forms as described in the staff memo dated January 16, 2014.

The motion passed unanimously.

Commission Meeting Minutes

Chair Ranade confirmed enough members are present to establish a quorum and the meeting minutes can be approved.

Motion 14-046

Moved by Commissioner Degginger, seconded by Chair Ranade that:

The Commission adopt the minutes of the December 5, 2013, regular meeting as written.

Strategic Plan Progress Report

Ms. Doyle reported the progress on a few of the

strategic plan items. She provided a draft informational brochure for the complaint investigation process which describes how to file a complaint and a more detailed explanation about the entire complaint investigation process than the previous FAQ. This brochure will replace the one-page frequently asked question document that did not include as much information. Additional information has been included on what happens after the investigation is completed; and information about public records and public disclosure of the investigative information. This information includes hyperlinks and will be posted on the website.

Linda Dalton, Sr. Assistant Attorney General, requested and received permission from the Commission to include these materials in her CLE presentation with Commissioner Degginger in mid-February.

Ms. Doyle discussed partnership opportunities with civic and other organizations to expand the distribution of PDC's information out into the community.

Jana Greer, Outreach Specialist, has continued to update the online manuals. All updates have been made to revise the limits with added hyperlinks to all of the citations. The F-1 forms have been revised with an annotated copy of the form with hyperlinks as well.

Pending Reports

Michael Smith, Chief Technology Officer, presented a demonstration on tracking filers who have not followed through and submitted their signature card. A tool was created in October for filer assistance staff to utilize which allows them to notify and track filers who have not submitted their signature card. This file pending reporting app is used primarily by Jennifer Hansen in filer assistance. It notifies filers that they owe the PDC a signature card in order for their report to be received and valid. All of our applications that receive pending reports have been set up with this app.

Filer Request

- Reporting Modification Request from Richard L. Anderson, City Council Member, City of Everett, seeking an exemption from disclosing the business customers that made payments of \$10,000 or more to Hascal, Sjöholm & Company, PLLC, during the previous twelve months.

Motion 14-047

- *Electronic Filing Waiver Request from Pam Roach, 2014 Candidate for State Senate from the 31st Legislative District, seeking a limited exemption from the electronic filing requirements for reports filed in*

Mr. Smith also followed up on an inquiry from Commissioner Degginger to let the Commission know we have the ability to find out where referral links to the PDC website come from through Google Analytics.

Chip Beatty, Filer Assistance Specialist, presented Richard L. Anderson's request for reporting modification.

Mr. Anderson joined the meeting by conference call.

Mr. Beatty stated that Mr. Anderson is requesting a reporting modification that exempts him from disclosing the business customers that made payments of \$10,000 or more to Hascal, Sjöholm & Company, PLLC, during the previous twelve months. Mr. Anderson stated the accounting business is highly competitive and disclosing this information would create a competitive disadvantage. Mr. Anderson indicated he would recuse himself on any vote on an action that might benefit customers of the firm. Mr. Anderson also disclosed on his F-1 supplement payments of \$2,500 to the firm from the City of Everett for consulting.

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission grant the partial reporting modification as requested, finding that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Ms. Anderson presented Senator Roach's request for electronic filing waiver request.

Senator Roach is not participating due to the legislative session.

Ms. Anderson stated that Senator Roach contacted the PDC staff to notify them she had begun her

calendar year 2013 (WAC 390-19-050).

2014 campaign and registered her campaign in August. She indicated that her treasurer was out of the country and was unable to electronically file her reports and she would be mailing in her paper reports until the treasurer returned in December.

In December, Senator Roach was notified her treasurer's trip was extended until February. Senator Roach is requesting a temporary waiver from the temporary filing requirement.

Commissioner Degginger stated that Senator Roach was proactive in contacting the PDC and notifying staff this was a temporary situation.

Motion 14-048

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission grant the limited exemption pursuant to RCW 42.17A.245 as requested for the period of October 2013 to February 2014 on the conditions set forth in the staff recommendations.

The motion passed unanimously.

Legislative Report

Ms. Doyle reported the Senate has not begun floor action, so there has not been an opportunity for Commissioner Degginger's appointment to be considered. Ms. Doyle will continue to monitor and ensure the confirmation moves along. There are a couple of bills being heard in the Senate Governmental Operations Committee this morning which are SB 6097 text message contributions; as well as SB 6165 accountability in caucus political committee accounts. Ms. Doyle provided written comments to the Committee regarding both bills as she is not able to attend the hearing today.

In addition to the supplement provided, there are a few bills of interest on the technology front which include HB 2222 related to establishment of an open data policy for all state government; and HB 2564 authorizing the use of electronic signatures by state agencies. The other bills that have recently been introduced are HB 2552, signature gathering for initiatives; SB 6323, which would change the Public Disclosure Commission

membership provisions; and SB 6371 to remove the requirement for candidates and authorized committees to use the electronic filing option and file by email or fax. There is interest in legislation surrounding the lobbyist reporting. Ms. Doyle also believes there is continued interest in the bill that has been introduced for the last several years regarding the filing fee for lobbyists and other candidates to raise some additional revenue for the PDC's electronic filing applications. There is still nothing to report on our agency-request legislation since there has not been any floor action to date. Ms. Doyle asked the Commissioners if they would like to add comments, remarks, make a recommendation, or take a position on any of the bills mentioned.

Commissioner Degginger shared some initial thoughts on SB 6323. With the current appointment process, the Governor can broadly survey the landscape, which has traditionally been a very good thing. Successive governor's have appointed people who have served in the legislature, state and local government, or haven't served in government at all, just to provide a variety of perspectives because the laws that we deal with don't relate simply to the election of state legislators or statewide elections. PDC laws cover a wide range of offices, from water district commissioners, to fire districts and hospital districts, city councils and county commissions, and county councils, all the way through the legislature. Commissioner Degginger believes that variety is valuable. He expressed concern that if appointed members were primarily from a legislative background and focused on legislative politics, there would be a proclivity to be too narrowly focused. There is a lot of value in having people serve on the Commission that have experiences at all levels of elective activity. It would be a shame to lose that.

Commissioner Turner asked if there is an opportunity to provide the legislature information regarding the impacts of SB 6371 on the agency without a fiscal note request.

Ms. Doyle stated there is an opportunity to provide the impacts even in the absence of a request.

Chair Ranade stated we need to make it clear that SB 6371 would have a real impact on our staff and the amount of work they would have to do.

Budget Report

Ms. Doyle reported that the Governor's proposed Supplemental Budget includes the smaller of the PDC's two IT funding requests for maintenance of software items. It does not include the larger request to restore expired licenses and provide additional IT security, storage and staff support. The media has reported the Senate majority coalition does not necessarily believe a supplemental budget is necessary this session, so it remains to be seen if any budget will be passed.

Staff Reports

Ms. Doyle provided three professional staff lists to post on the PDC website and will be used for determining who has an obligation to file F-1 reports. The Deputy Director job posting has been finalized and posted. Ms. Doyle is putting together an interview team and invited individual Commission Members to review the applications or participate in the interview process. She is continuing to work with the Governor's Office on getting the Commission back to full capacity and hopeful to be adding a fifth commissioner soon. For the Commission's benefit and with the help of Nancy Coverdell, Ms. Doyle would like to convert the PDC numbers data into a more user friendly dashboard.

Ms. Dalton stated there was no revenue reported on the December report. The Office of the Attorney General received an installment and she will provide the information to Ms. Coverdell to add to the December revenue report.

Chair Ranade commented there are some open compliance cases on the report that are more than two years old.

Ms. Doyle was pleased to share that one of those items will be on the next meeting's agenda. It was a complex investigation with an extensive volume.

The other case is taking longer than anticipated.

Mr. Smith presented website usage statistics showing that usage has tailed-off tremendously after the election which is typical. We are continuing to harden the PDC infrastructure and make some adjustments and other changes in the next few weeks in response to security issues. The SOS office is publishing links directly to local ballot measure committees that we have campaign information on which is a new feature to the online voter's guide this year. It should draw more traffic than we would typically see. The goal is for all candidates to have a link in the online voter's guide back to their particular campaigns information on the PDC website. The online voter's guide is a popular item in the elections and glad that we are listed.

Complaint Review Status Report

Jacob Berkey, Compliance Officer, presented a compliance report to provide a management tool for agency leadership, the Commission, and to the public to be able to more easily follow compliance activity.

Enforcement

Reports to Commission re: 45 Day Citizen Action Letters:

- *Grocery Manufacturers Association (GMA)*, Case No. 14-002, involving alleged violations of RCW 42.17A.205, .235 and .240 by failing to register and report as a political committee in opposition to I-522, a statewide initiative on the November 5, 2013, general election ballot concerning the mandatory labeling of genetically modified organisms (GMOs) in certain food and beverages.

Phil Stutzman, Director of Compliance, reviewed staff's investigation, actions taken by the Attorney General, and recommendation concerning allegations contained in PDC Case No. 14-002, a 45-day Citizen Action Complaint filed with the Attorney General on August 26, 2013, by Karen Andonian and Moms for Labeling, through attorney Knoll Lowney, against Grocery Manufacturers Association (GMA).

On August 29, the Attorney General referred the complaint to the PDC for investigation and possible action. On October 16, the Attorney General filed a lawsuit against GMA alleging violations of RCW 42.17A.

Mr. Stutzman stated the staff recommends the Commission take no further action concerning the Citizen Action Complaint since the Attorney General has addressed the allegations in full in its First Amended Complaint filed November 20,

2013. If the Commission agrees, staff will close its investigation of the allegations in PDC Case No. 14-002.

Motion 14-048

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission accept the staff recommendation and take no further action concerning the citizen action complaint in light of the Attorney General addressing this matter.

The motion passed unanimously.

Executive Session/Working Lunch

The Commission went into Executive Session to discussion pending and potential litigation with counsel and returned at 1 p.m.

Enforcement Cont'd

Reconsideration of Final Commission Order re:

- *Robert Jesse Hill*, Case No. 13-126, involving violations of RCW 42.17A.205 and .700 by failing to file a Candidate Registration (C-1 report) and a Personal Financial Affairs Statement (F-1 report) as a 2013 candidate for Tacoma City Council.

Kurt Young, Compliance Officer, reviewed *Robert Jesse Hill*, PDC Case No. 13-126, the request for reconsideration of a final Commission order received from Robert Jesse Hill.

A brief enforcement hearing was held on September 26, 2013, in which the Commission found Mr. Hill in violation of RCW 42.17A.205 for failing to file a C-1 report, and RCW 42.17A.700 for failing to file an F-1 report. Mr. Hill did not appear or participate at the hearing and was assessed a civil penalty of \$500 in accordance with the penalty schedule set forth in WAC 390-37-165, which was payable within 30 days of the date of the order.

On December 12, 2013, PDC staff received a letter from Mr. Hill requesting the Commission reconsider his case. He stated for most of the calendar year 2013 he was incarcerated in Pierce County jail, and said the November 5, 2013, final order was forwarded to him by a family member. He stated while the final order mentioned that he was in jail, he had not received any mailings on this matter at the Tacoma Avenue address to respond to this matter. The original hearing notice in this matter was mailed to the address the Respondent had previously provided on his 2013 Declaration of Candidacy, which was Post Office Box 5006, Tacoma, WA 98415. As of January 15,

Motion 14-049

- *William Neal, General Manager, North Beach Water District (NBWD), Case No. 13-002, involving alleged violations of RCW 42.17A.555 by authorizing one of his subordinates, Tami Herman, a NBWD staff person when the alleged violations occurred, to use the NBWD facilities (computer and copier) to assist the 2012 campaign of William Herman, Ms. Herman's spouse, for Pacific County Commissioner.*

2014, Mr. Hill had not filed his missing C-1 or F-1 reports.

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The request for reconsideration from Robert Jesse Hill be denied.

The motion passed unanimously.

Callie Castillo, Assistant Attorney General, represented PDC staff regarding William Neal, PDC Case No. 13-002.

Mr. Neal was represented in this matter by Suzanne Michael, Counsel, who had planned to participate in the hearing by telephone but was not available when the case was called.

On behalf of the parties, Ms. Castillo presented a stipulation as to facts, violation and penalty in the PDC enforcement actions against Mr. Neal. Mr. Neal violated RCW 42.17A.555 by directly or indirectly authorizing a former employee, Tami Herman, to use the North Beach Water District facilities in support of the employee's husband's campaign for commissioner.

Ms. Castillo summarized the stipulation as follows: Shortly after her termination, Ms. Herman contacted PDC Staff and admitted to using the public facilities to print campaign related documents as well as placing a campaign sign on her Water District computer as her background screen. Ms. Herman said Mr. Neal gave her explicit permission to use the water district facilities for the campaign. Ms. Herman testified under oath that while she was working overtime one night, she specifically asked Mr. Neal if she could email documents from the campaign to her work computer, open the documents after hours and then make copies of the campaign documents. She testified that Mr. Neal agreed to this use and he was aware of her use of public facilities, including the fact that her background screen on her work computer was her husband's campaign

sign.

Ms. Herman was in violation of RCW 42.17A.555 and assessed a penalty of \$500 with \$350 suspended. Mr. Neal does not admit to violating any statute or to any wrong doing, however, he acknowledges the commission staff believes it has such evidence to establish a violation of the statute. In order to avoid a contested proceeding, Mr. Neal has agreed to pay a civil penalty in the amount of \$750 with \$500 being suspended on the condition that he pay the non-suspended portion of the penalty within 30 days and that he not be found of committing any violation of RCW 42.17A within four years.

Staff asks the Commission to accept the stipulation.

Motion 14-050

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission accept the stipulation of facts, violation, and penalty as presented.

The motion passed unanimously.

Meeting Adjourned

The meeting adjourned at 1:15 p.m.

Minutes Approved on February 27, 2014