

**State of Washington
PUBLIC DISCLOSURE COMMISSION**

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MINUTES –Regular Meeting

9:30 a.m. | May 25, 2017

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

Commission Members Present

Anne Levinson, Chair; John Bridges, Vice Chair; Jack Johnson, Member; Katrina Asay, Member; David Ammons, Member

Staff Present

BG Sandahl, Acting Executive Director; Penny Allen, Assistant Attorney General; Chad Standifer, Assistant Attorney General; Kim Bradford, Communications and Outreach Director; Kurt Young, Compliance Officer; Phil Stutzman, Compliance Officer; Fox Blackhorn-Delph, Compliance Coordinator, Jennifer Hansen, Filer Specialist; Jana Greer, Administrative Officer

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Anne Levinson at 9:30 a.m.

Introduction of new PDC Executive Director | [PDC Meeting Video](#)

Chair Levinson introduced new PDC Executive Director Peter Lavallee.

Director Lavallee thanked the Commission for the opportunity to work for the PDC. He described his background in state and private service and his commitment to the mission of the PDC.

Director Lavallee will officially start June 8, 2017.

Public Comments | [PDC Meeting Video](#)

Roger Lenk addressed the Commission regarding the sound quality of the Commission meetings via webcast.

John Trumbo addressed the Commission regarding the Benton County complaint, stating that the public needs to be informed so that the same mistakes will not be repeated.

Conner Edwards addressed the Commission regarding the request for guidance from PDC staff to begin rulemaking to remove forms from WAC 390. He is concerned that if the forms are taken out of WAC 390 they will be changed frequently. If the forms stay in the WACs, they would have the protections of the rulemaking process to make any changes.

Glen Morgan addressed the Commission regarding a document he had submitted to the PDC that shows examples of how to avoid violating RCW 42.17A.

Meeting Minutes | [PDC Meeting Video](#)

Meeting minutes from April 27, 2017 regular Commission meeting.

Motion 17-023 Moved by Commissioner Ammons, seconded by Commissioner Johnson that:
The Commission approve the April 27, 2017 regular meeting minutes as presented.

Approved

Meeting minutes from May 16, 2017 special Commission meeting.

Chair Levinson asked that the “Executive Session” portion of the meeting minutes be amended to clarify and narrow what was discussed -- matters of employment -- and to change “the candidate” to “a candidate” since the Commission considered several candidates.

Motion 17-024 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission approved the May 16, 2017 with the amendments as discussed.

Approved

Reporting Modification Request | [PDC Meeting Video](#)

Adam Eisenberg

Jennifer Hansen presented Adam Eisenberg’s request for a reporting modification that would exempt him from reporting real estate, including street address, parcel number, or legal description, on his Personal Financial Affairs Statements for the previous twelve months, due to safety concerns.

Staff recommended that the Commission approve the modification as presented.

Chair Levinson noted that she had worked with Mr. Eisenberg in past years and that it did not inhibit her objective review of the request for a modification.

Motion 17-025 Moved by Commissioner Ammons, seconded by Commissioner Johnson 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.

Commissioner Asay asked staff to verify if Mr. Eisenberg was required to file this same information with the Seattle Ethics and Elections Commission or whether they have a similar modification process.

Commissioner Ammons asked whether address information was required to be provided to the Secretary of State for candidates as part of their filing requirements. He also noted that the Secretary of State Office manages the address confidentiality program which is now offered to law enforcement officers and officers of the court who receive threats.

Approved.

Next Steps/Follow-up: Jennifer Hansen will contact the Seattle Ethics and Elections Commission to verify what the reporting process and requirement are for this type of position. Also, she will contact the Secretary of State’s office for more information on what address information they require and on how the address protection program works.

Ms. Hansen will report this information to the Commission at the next regular meeting.

Hannah Nye

Jennifer Hansen presented Hannah Nye's request for a retroactive reporting modification that would exempt her from disclosing her personal residential address information and personal phone number, on her Personal Financial Affairs Statement for the previous twelve months and on her Candidate Registration filed as a candidate for the 2017 election.

Staff recommended approval.

Motion 17-026 Moved by Commissioner Bridges, seconded by Commissioner Johnson 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.

Approved

Revision to F-1 Modification Form to Include Recusal Language | [PDC Meeting Video](#)

In response to the April Commission meeting discussion, Jennifer Hansen presented draft recusal language to be added to the F-1 application.

The recusal language clarifies and reminds an applicant that even though they have received a reporting modification, they still must recuse themselves if the undisclosed information would create a conflict of interest.

Staff also identified needed housekeeping and minor technical changes for the Commission to review.

Jennifer Hansen also reported that the script the presiding officer uses to approve requests will be modified based on feedback from the Chair.

Next Steps/Follow-up: Jennifer Hansen will update the F-1 application questionnaire and the Commissioners' motions language.

Enforcement | [PDC Meeting Video](#)

Benton County Officials

Participants via conference call:

- Lisa Beaton, Kennewick City Attorney, on behalf of Police Chief Ken Hohenberg (PDC Case 16059).
- Heather Kinzley, Richland City Attorney, on behalf of Police Chief Chris Skinner (PDC Case 16066).
- Howard Saxton, Prosser City Attorney, on behalf of Police Chief David Giles (PDC Case 16070).
- Bronson Brown, West Richland City Attorney on behalf of Brian McElroy, former City of West Richland Police Chief (PDC Case 16468).
- Josie Delvin, former Treasurer for Citizens for Safe Communities (PDC Case 16062).

Kurt Young presented a summary of PDC Staff allegations that Chris Skinner, City of Richland Police Chief (PDC Case 16066); Steven Keane, Benton County Sheriff (PDC Case 16072); David Giles, Prosser Police Chief (PDC Case 16070); Ken Hohenberg, City of Kennewick Police Chief (PDC Case 16059); and Brian McElroy, West Richland Police Chief (PDC Case 16468), violated RCW 42.17A.555 by using public facilities to attend a May 13, 2014, press conference in support of an August 5, 2014, Benton County law and justice ballot measure.

In addition, Mr. Young summarized the complaint submitted by Radphord-Leon Howard on June 26, 2014. The complaint alleged that 19 public officials and public agencies in Benton County violated RCW 42.17A.55, RCW 42.17A.565, 42.17A.235, RCW 42.17A.240, RCW 42.17.245, WAC 390-16-034, RCW 42.17.500.

PDC staff concluded six allegations warranted further action by PDC staff or the Commission:

- Use of public facilities to support a ballot proposition (RCW 42.17A.555)
- Failure to timely file Monetary Contributions reports (C-3 reports) and Summary Campaign Contribution and Expenditure reports (C-4 reports)
- Failure to timely file C-3 and C-4 reports electronically (RCW 42.17A.245)
- Failure to timely disclose required contributor and vendor information (RCW 42.17A.240)
- Failing to provide the occupation and employer information for individuals who contributed more than \$100 (WAC 390-16-034)
- Use of public facilities to support a ballot proposition (RCW 42.17A.555)

Staff recommended all other allegations be dismissed.

Motion 17-027 Moved by Commissioner Asay, seconded by Commissioner Johnson that:

The Commission dismiss these allegations, collectively in these matters as recommended and presented by PDC staff.

Approved

Mr. Young presented the stipulated facts, violations and penalty for the remaining matters to the Commission for consideration and approval.

Staff recommended:

In the matter of Ken Hohenberg (PDC Case 16059), a penalty of \$750 of which \$500 is suspended under the condition that the non-suspended portion be paid within 30 days of receiving the Order and there are no further violations within 4 years.

Motion 17-028 Moved by Commissioner Johnson, seconded by Commissioner Asay that:

The Commission approve the Stipulations as to facts, violation and penalty as presented.

Approved

In the matter of Chris Skinner (PDC Case 16066), a penalty of \$750 of which \$500 is suspended under the condition that the non-suspended portion be paid within 30-days of receiving the Order and there are no further violations within 4 years.

Motion 17-029 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission approve the Stipulations as to facts, violation and penalty as presented.

Approved

In the matter of Brian McElroy (PDC Case 16468), a penalty of \$750 of which \$750 is suspended under the condition that there are no further violations within 4 years.

Motion 17-030 Moved by Commissioner Johnson, seconded by Commissioner Asay that:

The Commission approve the Stipulations as to facts, violation and penalty as presented.

Commissioner Ammons stated that he cannot support this, he believes the violation is the same as the others. Wearing of a uniform, whether it is inconvenient to change out of or not, carries a lot of campaign weight behind it. It is prohibited for a reason and should be taken very seriously.

Commissioners Johnson, Asay, Bridges, Levinson voted Yes. Commissioner Ammons voted No.

Vote 4 to 1

Approved

In the matter of David Giles (PDC Case 16070), a penalty of \$750 of which \$750 is suspended under the condition that there are no further violations within 4 years.

Motion 17-031 Moved by Commissioner Johnson, seconded by Commissioner Asay that:

The Commission approve the Stipulations as to facts, violation and penalty as presented.

Commissioners Johnson, Asay, Bridges, Levinson voted Yes. Commissioner Ammons voted No.

Approved 4 votes to 1.

Approved

In the matter of Steven Keane (PDC Case 16072), a penalty of \$750 of which \$500 is suspended under the condition that the non-suspended portion be paid within 30 days of receiving the Order and there are no further violations within 4 years.

Motion 17-032 Moved by Commissioner Johnson, seconded by Commissioner Asay that:

The Commission approve the Stipulations as to facts, violation and penalty as presented.

Approved

Citizens for Safe Communities PAC

Kurt Young presented PDC Staff's allegations that Citizens for Safe Communities PAC (PDC Case 16062), a local Benton County political committee formed to support an August 5, 2014, local law and justice ballot measure, violated: (1) RCW 42.17A.235 and .240 by failing to timely file Monetary Contribution reports (C-3 reports) and Summary, Full Report Receipts and Expenditures (C-4 reports); (2) RCW 42.17A.240 by failing to provide the required contributor information including an address, city, state and zip code on C-3 reports, and the required vendor information including an address, city, state and zip code on C-4 reports; (3) RCW 42.17.245 by failing to timely file C-3 and C-4 reports electronically using the Online Reporting of Campaign Activity; and (4) WAC 390-16-034 by failing to provide the

occupation, and the name and address of the person's employer for each individual person who contributed more than \$100 to the Committee in the aggregate.

Mr. Young presented the stipulated facts, violations and penalty for Commission consideration and approval. Staff recommended:

In the matter of Citizens for Safe Communities (PDC Case 16062), a penalty of \$650 of which \$450 is suspended under the condition that there are no further violations within 4 years.

Commissioner Ammons stated that it does not appear that they did timely comply. The availability of this information in a timely manner is important.

Motion 17-033 Moved by Commissioner Johnson, seconded by Commissioner Asay that:

The Commission accept the Stipulation as to facts, violations and penalty as presented.

Voted Yes – Commissioner Levinson, Commissioner Johnson, Commissioner Asay, and Commissioner Bridges

Voted No – Commissioner Ammons

Approved 4 votes to 1.

Enforcement Update | [PDC Meeting Video](#)

Acting Executive Director BG Sandahl, Kurt Young and Phil Stutzman reviewed the process for receiving a complaint and how it progresses through FreshDesk.

Director Sandahl and Phil Stutzman updated the Commission on the status of open/closed complaints and PDC enforcement matters.

Chair Levinson noted that the Commission established alternative approaches to streamline the complaint and investigation process starting in 2015, and is pleased with the current process and progress staff has made in using the alternatives.

Assistant Attorney General Penny Allen reported on the status of PDC cases where litigation is underway.

Executive Session

The Commission went into executive session at 12:05 pm, pursuant to RCW 42.30.110, to discuss with legal counsel agency enforcement matters and pending and potential litigation and to review performance of public employees.

The Commission returned to open public session at 12:50 pm.

Policy Review | [PDC Meeting Video](#)

Chair Levinson discussed the draft proposed policy of PDC staff political activity, appearance of fairness, and use of social media. This proposed policy is part of the agency's ongoing review to bring policies up to date.

The intent of the policy is to provide guidance and highlight the obligations the PDC staff have because of the nature of the PDC's work.

Staff have reviewed and provided initial feedback; the policy is in draft form at this stage.

Commissioner Ammons stated that the draft language is a great first step and it shows that PDC requires a public sense of fairness.

Chair Levinson asked staff to continue working on the current draft along with the existing PDC conflict of interest statement, and the Information Technology policy, and seek additional staff input to bring back to the Commission for consideration at the June meeting.

Next Steps/Follow-up: Kim Bradford and BG Sandahl will continue working on the policy and related policies and include additional staff input. Proposed policies will be brought to the Commission at the June meeting for consideration.

Request for Guidance | [PDC Meeting Video](#)

Director Sandahl presented a draft response to the letter submitted by Jeff Myers at the April Commission meeting regarding F-1 reporting obligations of elected officials who serve on boards or commissions.

Ms. Sandahl noted that the proposed response to Mr. Myers reiterates the Commission's position of no legal obligation for elected officials to report participation on a local board or commission unless they, or a family member, received more than \$2,400 annually in compensation from the board or commission.

Staff will keep the letter on file for reference and guidance on future matters. Online filer guidance will be updated to include this information as well.

The Commission authorized the distribution of the letter to Mr. Myers.

Rulemaking | [PDC Meeting Video](#)

The Commission had asked staff to look at potential language for rulemaking that would take 18 PDC forms out of WAC 390, which would allow technical and minor changes to be made on a regular basis.

Director Sandahl discussed the proposed rulemaking and said staff would begin by filing a CR101 form with the State Registrar which indicates the PDC's intent to file. Staff and commissioners agreed the rulemaking should be clear that any substantive changes to forms would still be brought to the Commission during an open public meeting so that the public will always have an opportunity to participate in the process.

Chair Levinson noted that the Commission's goal is to be responsive and having the forms embedded in the WACs makes it an obstacle to have to go through rulemaking each time the agency makes a technical change.

The Commission requested staff to initiate rulemaking for this matter.

Next Steps/Follow-up: Director Sandahl will file the CR101 to begin the rulemaking process and report back to the Commission at the June meeting on next steps.

T-1 Filing | [PDC Meeting Video](#)

Kim Bradford and Fox Blackhorn-Delph discussed complaints about T-1 required filings, missing T-1 reports, and the outreach that is being done.

The PDC has received 16 complaints against 34 jurisdictions that have not timely filed a T-1 form, an annual treasurer's statement stating whether they have any public funds invested in a financial institution in which they held "an office, directorship, partnership interest, or ownership interest."

Staff proposed a form revision that would address situations when a treasurer has left office and the new incumbent is trying to remedy past non-compliance. Mr. Blackhorn discussed proposed language for the Commission to consider.

Ms. Bradford reported on the compliance outreach efforts. The compliance levels are down from previous years partly due to the lack of outreach. In previous years, email reminders were sent out to those that had not filed. This process was very time consuming since the treasurers often change from year to year.

Staff recommended sending out a reminder notice via U.S. mail to the jurisdictions that have not yet filed for 2017 so that the notices can go out more quickly than they would if the agency had to compile a list of financial officers. The Commission asked that staff continue to research and look at the issue of the individual vs. agency and whose responsibility it is to file the T-1 report. Also, update the T-1 forms to add information consistent with other PDC forms: email is the official communication, the filers are responsible to provide an accurate email address, and what happens if there is a violation.

Commissioner Ammons also asked that staff check on the obligations of credit unions and co-ops.

Next Steps/Follow-up: Kim and Fox will continue to research and bring the proposed form and process back to the Commission for consideration at the June meeting.

Executive Director Report | [PDC Meeting Video](#)

Legislative and Budget Report

Legislative special session has been called. There are several legislators who are looking at ways to work with the PDC to streamline some of the PDC processes. Director Sandahl updated the Commission on the State Auditor's Office accountability audit of the PDC. The audit has been completed and the overall report was outstanding. Two minor items need to be addressed: 2016 state risk assessment will need to be completed, and a policy for purchase needs to be updated and a purchase cards user agreement signed by the current users.

PDC budget is good through the end of the fiscal year. If the supplemental budget package that is part of the 17-19 biennial budget is passed before June 30, there are limited items for which it can be used. The director of IT has identified items that could be purchased if the funding is approved.

Communications and Outreach Report | [PDC Meeting Video](#)

Director Bradford reported on Customer Service team progress. Filing week has just been completed and staff is now focusing on FreshDesk tickets and assisting customers.

The Filer Assistant Specialist continue to assist filers and respond to them within 24 hours. Staff have started to design training videos that will be available online for those who are not able to attend in-person.

Ms. Bradford reviewed the process the staff uses to identify candidates who are required to file and how reminders are sent through the election cycle.

Surplus Funds Guidance

At the last Commission meeting staff was asked to identify what filer assistance information is in the manual and develop additional language regarding surplus funds, specifically the use of surplus funds for a non-reimbursed public office expenses.

Staff and the AAG presented language to add to the existing filer assistance information available online.

AAG Chad Standifer suggested that if the Commission wanted to go beyond the proposed additional language, then possible rulemaking should be considered that would get at a more specific area of spending.

Chair Levinson asked staff to include a notice on the PDC website whenever the filer assistance information is updated.

Next Steps/Follow-up: Kim will research options on the PDC website to see if it is possible to have a notification visible when a significant change is made.

F-1 Update

Ms. Bradford updated the Commission on the F-1 project. Staff has identified four components of the process and will begin to pursue what changes are needed, starting with the current F-1 form. The goal is to create a better filer experience and process. The process will include stakeholder work.

Information and Technology Report | [PDC Meeting Video](#)

Director Gutholm reported on the recent Office of Financial Management look at the IT position restructure. The Department of Enterprise Services is currently working on their proposed plans for these positions and the effect it will have when agencies are recruiting for these positions. This is a good opportunity for the PDC to retain the current PDC IT staff as well as attract new staff when needed. The new job classifications should take effect in July 2017.

Mr. Gutholm reported on the Techno Grow conference he attended. The group attending the conference was very interested in both the PDC's data and how customer driven the PDC's approach is. The Info search project fell behind but staff has changed the approach of the project and it is back on track. The team has provided the first deliverable as was promised.

The meeting was adjourned at 2:20 pm.

Approved June 22, 2017.