

State of Washington
PUBLIC DISCLOSURE COMMISSION

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MINUTES – Regular Meeting

9:30 a.m. | April 26, 2018

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

Commission Members Present

Anne Levinson, Chair; Jack Johnson, Vice-Chair; David Ammons, member; Bill Downing, member.

Staff Present

Peter Lavalley, Executive Director; Kim Bradford, Communications and Outreach Director; Kurt Young, Compliance Officer; Phil Stutzman, Compliance Officer; Jennifer Hansen, Filer Specialist; James Gutholm, Chief Technology Officer; Jana Greer, Administrative Officer; Toni Lince, Customer Service Representative; Scott Douglas, Assistant Attorney General; John Meader, Assistant Attorney General; and Chad Standifer, Assistant Attorney General.

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

Public Comments | [PDC Meeting Video](#)

Glen Morgan commented that [ESHB 2938](#) introduced new questions and the need for clarity, certainty, predictability in campaign finance law. He gave an example of a possible conflict in the bill, within the definition of Independent Expenditure. He said it will encompass fewer expenditures than the WAC and other portions of the RCW. This opens the door for unintentional violations of the law, in his opinion.

Mr. Morgan may be filing a request asking the Commission to clarify the amount.

He said there is an opportunity for the Commission, under this law, to implement rapid stipulation and adjudication, making the process easier and improving the efficiency of the agency.

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of the March 22, 2018, regular meeting minutes.

Motion 18-023 Moved by Commissioner Johnson, seconded by Commissioner Downing that:

The Commission approve the March 22, 2018, regular meeting minutes.

The motion passed.

The Commission considered approval of the April 2, 2018, special meeting minutes.

Motion 18-023 Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

The Commission approve the April 2, 2018, special meeting minutes.

The motion passed.

Enforcement Hearing | [PDC Meeting Video](#)

Go Big Tri Cities, [PDC Case 6954](#)

Tyler Borders, Respondent, participated via conference call.

Chad Standifer, Assistant Attorney General, presented the proposed Stipulation as to Facts, Violations, and Penalty for Commission consideration.

Phil Stutzman, Compliance Officer, participated on behalf of the Staff.

Mr. Standifer reviewed the alleged violation of [RCW 42.17A.205](#) by failing to timely register as a political committee in support of Proposition 16-8, a 2016 ballot measure of the Kennewick Public Facilities District; [RCW 42.17A.220](#) by failing to timely deposit contributions; [RCW 42.17A.235](#) and [42.17A.240](#) by failing to file timely and complete contribution and expenditure activity reports; [RCW 42.17A.320](#) by failing to include sponsor identification on all political advertising; and [RCW 42.17A.245](#) by failing to file all reports using the Commission's electronic filing alternative.

Staff confirmed that the Respondent was now in compliance with the reporting obligations, with the exception of the electronic filing requirement that could no longer be met due to an I.T. issue. Mr. Standifer reviewed the mitigating and aggravating factors in the matter.

Staff recommended a penalty of \$1,000 with no amount suspended. Both parties agreed to the penalty assessed.

Commissioner Ammons requested that a time frame for payment be added to the Stipulation. Commission Chair Levinson asked if the parties would agree to two modifications to the Stipulation - the requirement of payment within 30 days and a finding that the Respondent was now in compliance, with the exception electronic filing exception as noted.

Both parties agreed to the two modifications. Staff will modify the Stipulation accordingly and the parties will re-sign it.

Motion 18-024 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission accept the Stipulation as to Facts, Violations, and Penalty proposed in PDC Case 6954, as amended, and assess a penalty of \$1,000 with no amount suspended. Payment of the penalty is due 30 days from the date of the final order.

The motion passed.

Modification Requests for F-1 Reports | [PDC Meeting Video](#)

Jennifer Hansen, Filer Specialist, presented requests for reporting modifications.

All applicants declined to participate at the hearing.

The following individuals requested a new or a renewal of reporting modification (Personal Residence: [WAC 390-28-100\(d\)](#)):

New Requests

- [Riley Clubb](#) – Councilmember, City of Walla Walla [WAC 390-28-100\(b\)](#)

Mr. Clubb requested a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during 2017 to Lowden Schoolhouse Corporation.

Motion 18-025 Moved by Commissioner Ammons, seconded by Commissioner Downing that:

The Commission grant the partial reporting modification as requested, finding that literal application of the law 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.

Commissioner Levinson reminded staff to work with requestors to ensure that if they are using the form to apply for a modification, that the most current form needs to be used, since it includes updated information, such as a statement regarding conflicts of interest.

Kim Bradford, Communication and Outreach Director, noted that filers have no obligation, under the law, to use the forms PDC provides. All that is required is that the requestor makes the request in writing.

Next steps/Follow-up: Staff will bring back to the Commission, as a process improvement, the reporting modification process and how it is managed.

- [Anita Crawford-Willis](#) – Municipal Court Judge, Seattle Municipal Court WAC 390-28-100(d).

This matter was initially heard at the April 2, 2018, special Commission meeting. Staff was asked to contact the applicant regarding additional information needed.

Judge Crawford-Willis requested a reporting modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, on her Personal Financial Affairs Statement for calendar year 2017.

Motion 18-026 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission deny the partial reporting modification as requested.

The motion passed.

- [Ned Wells Witting](#) – Candidate for State Representative, Legislative District 25 [WAC 390-28-100\(b\)](#)

Mr. Witting requested a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during the previous 12 months to Print NW, LLC, a commercial printer where he served as Chief Financial Officer.

Motion 18-027 Moved by Commissioner Ammons, seconded by Commissioner Downing that:

The Commission grant the partial reporting modification as requested, finding that literal application of the law 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.

Renewals

- [Andrea Darvas](#) – Superior Court Judge, King County [WAC 390-28-100\(d\)](#)

Judge Darvas requested a renewal of a reporting modification that would exempt her from disclosing her personal residential address information, including street address, parcel number, or legal description, on her Personal Financial Affairs Statement for calendar year 2017.

- [Julia L. Garratt](#) – Superior Court Judge, King County [WAC 390-28-100\(d\)](#)

Judge Garratt requested a renewal of the reporting modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, for two properties she owns, on her Personal Financial Affairs Statement for 2017.

Motion 18-028 Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

The Commission grant the partial reporting modifications as requested, finding that literal application of the law 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.

- [Rodney P. Reid](#) – Port Commissioner, Port of Waterman [WAC 390-28-100\(b\)](#)

Mr. Reid requested a renewal of the reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during 2017 to Alpine Evergreen Co., Inc. (Alpine).

Mr. Reid also requested a renewal of the reporting modification that would exempt him from disclosing Washington real estate parcels in which Alpine held a direct financial interest of \$24,000 or more during 2017.

Motion 18-029 Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

The Commission grant the partial reporting modifications as requested, finding that literal application of the law 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.

Mr. Reid notified staff that he has resigned from the position.

Next steps/Follow-up: Commissioner Johnson requested that staff contact Mr. Reid to notify him of his filing requirement in 2019 since filers are often not aware that the statute requires local elected officials file a final report after they leave office.

- [Matthew W. Williams](#) – Superior Court Judge, King County [WAC 390-28-100\(d\)](#) [WAC 390-28-100\(b\)](#)

Judge Williams requested a renewal of a reporting modification that would exempt him from disclosing his personal residential address information, including street address, parcel number, or legal description, on his Personal Financial Affairs Statement for 2017.

Judge Williams also requested a renewal that would exempt him from disclosing the business customers that paid \$12,000 or more during 2017 to International Sensor Systems, Inc.

Motion 18-030 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission grant the partial reporting modification as requested, finding that literal application of the law 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.

Compliance and Enforcement Update | [PDC Meeting Video](#)

Kurt Young, Compliance Officer, updated the Commission on compliance and enforcement as of April 23, 2018.

Total number of open cases as of April 23, 2018: **447**

Total number of cases closed March 21 through April 23, 2018: **44** matters were closed during the period.

Case summary for the current period:

- New complaints received and cases opened March 21 through April 23, 2018: There have been **66 new complaints** filed with the PDC during this timeframe.
- Cases closed – no technical violation, minor filing error may have occurred ([WAC 390-37-060\(1\)\(a\)](#)): **16**
- Cases closed – Action Commenced by Attorney General under [RCW 42.17A.765](#): **6**
- Cases closed – Action Commenced by Citizen under [RCW 42.17A.765](#): **6**
- Cases closed – minor technical violation and/or minor filing error – Reminder letter issued ([WAC 390-37-060\(1\)\(a\)](#)): **4**
- Cases resolved by Brief Adjudicative Proceedings (Brief Enforcement Hearings): **4**

Next Steps/Follow-up: Commissioner Levinson discussed with staff ways to recategorize and provide additional information within the comments on the case report.

Rulemaking | [PDC Meeting Video](#)

Annual Report

The agency annual report was submitted earlier in the year to the Office of Financial Management for final approval. Staff will let the Commission Chair know when there is final approval from OFM.

Executive Director Lavalley presented rulemaking items for consideration and approval.

T-1 | Treasurer's Annual Report

Executive Director Lavalley presented proposed changes and amendments to WAC 390-37-143, adding the annual Treasurer's report (T-1) to the penalty schedule.

Staff recommended adoption as the rule as presented.

Motion 18-031 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission adopt the amendments to WAC 390-37-143 as presented.

The motion passed.

Preproposal Statement of Inquiry (CR-101) SSB 5991 and ESHB 2938

Staff requested to file a CR-101 to review WAC 390 for potential amendments to implement SSB 5991, ESHB 2938, and allow the public ample notification about potential rulemaking.

Executive Director Lavallee reviewed a rulemaking timeline for SSB 5991 and ESHB 2938. Commissioners asked for that additional dates for deliverables to the Commission be added to the timeline since the schedule for the emergency rulemaking is so tight.

Director Bradford discussed plans for outreach to stakeholders and additional interested parties.

Next steps/Follow-up: Staff will send the refined rulemaking schedule and update the Commission on the next steps.

Motion 18-032 Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

The Commission commence the rulemaking process for SSB 5991 and ESHB 2938 as discussed.

The motion passed.

Commission and staff members reviewed and discussed the emergency rulemaking needed for WAC 390 to implement ESHB 2938.

Executive Session

The Commission went in to Executive Session at 12:15 a.m. to discuss matters allowed in Executive Session pursuant to [RCW 42.30.110](#), including but not limited to discussion of enforcement matters, pending and potential litigation with legal counsel. Any action regarding pending litigation, or other matters properly discussed during executive session, would be taken following the Executive Session.

The Commission returned to the open public meeting at 1:00 p.m.

Emergency rulemaking discussion continued. Commission and staff members reviewed and discussed the emergency rulemaking needed for WAC 390 to implement ESHB 2938.

Staff will incorporate the suggested additions and changes as discussed and send a draft to the Commission for further review.

Executive Director Update

Executive Director Lavallee reminded the Commissioners about the recent ethics refresher that was emailed to them.

He reported on current recruiting for new positions. He reminded all that there will be a learning curve with new staff and the current staff will be training during this time as well as continuing to manage their usual workloads.

Office Space

Staff is currently exploring options to incorporate and house the new FTE's coming onboard.

Budget update

Executive Director Lavalley discussed the Attorney General (ATG) charges and how this continues to be the PDC's largest budget challenge.

Charges are largely driven by the ATG Campaign Finance Unit, primarily its Eyman matter.

Communications and Outreach Update

Kim Bradford, Communications and Outreach Director, updated the Commission on F1 compliance rates. Staff continues to work with filers to get filing compliance rate up. She noted that T-1 filing rate has increased due to the reminders that were sent out.

Director Bradford also included a summary and list of records requests received in the first quarter of 2018. Copies of F-1s continue to drive most of the requests. Staff also is handling an increasing complexity among other requests which need multiple installments to fulfill.

Process improvement highlight

Director Bradford discussed how staff is reviewing the processing of records requests and how they are tracked.

F-1's and posting online

Commissioner Levinson asked the members and staff to consider posting the F-1s online since we have the technological capacity to do so.

Past practice has been to not have these items posted online, and to make them available by a public records request.

As long as the PDC has the staff capacity as well as the technological capacity, the Commission should consider going forward with posting these online.

Commissioner Ammons noted that 60% of the current records requests are for F-1s. By having these online the staff will be able to focus on other tasks.

Executive Director Lavalley noted that if the Commission does make this decision to move forward then the staff will need time to send notifications to filers.

The IT team also has spent an ample amount of time over the past months compiling large requests for F-1. There is actually more work spent putting these large requests together in a month's time than there would be in implementing the technology to post these online.

The Commission gave official guidance and asked staff to proceed with posting F-1s online after determining a plan for filer notification.

Information and Technology Update

James Gutholm, Chief Technology Officer, updated the Commission on IT projects. He discussed the potential for projects that would be implemented by recent legislation.

Once staff determines what the agency needs are with the changes to WAC 390, the IT staff can prioritize those.

Adjourn at 2:40 pm

Approved May 24, 2018.