

State of Washington
PUBLIC DISCLOSURE COMMISSION
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MINUTES – Regular Meeting

9:30 a.m. | February 27, 2020
Evergreen Plaza Building, Room 206
711 Capitol Way
Olympia, Washington

Commission Members Present

David Ammons, Chair; Russell Lehman, Vice Chair; Bill Downing, member; Fred Jarrett, member; Nancy Isserlis, member.

Staff Present

Peter Lavalley, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Sean Flynn, General Counsel; James Gutholm, Chief Information Officer; Jana Greer, Administrative Officer; Kurt Young, Compliance Officer; Phil Stutzman, Compliance Officer; Fox Blackhorn-Delph, Compliance Coordinator 2; John Meader, Assistant Attorney General representing the Commission; and Chad Standifer, Assistant Attorney General representing PDC staff.

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

Commission Chair Opening Comments | [PDC Meeting Video](#)

The PDC is deep in the 2020 legislative session with both wins and setbacks that would be heard later in the meeting. He saluted the agency's representation before the Legislature by Commissioners Lehman and Jarrett as well as with Executive Director Peter Lavalley, Deputy Director BG Sandahl, and General Counsel Sean Flynn; expressed gratitude toward staff for the continuous, effective support they provide for filers; and congratulated the investigative team for reducing backlog and handling a variety of complicated cases.

Commissioners and staff continue to do fact-finding and consultations in early work on a goal of having a Public Disclosure Commission archive.

Public Comments | [PDC Meeting Video](#)

No public comments.

Consideration and Approval of Meeting Minutes | [PDC Meeting Video](#)

Meeting minutes were presented to the Commission for consideration and possible approval:

- January 16, 2020, Special Meeting
- January 23, 2020, Regular Meeting

MOTION 20-07 Moved by Commissioner Lehman and seconded by Commissioner Downing that:

The Commission approve the meeting minutes for the January 16, 2020, Special Meeting as presented and the January 23, 2020, Regular Meeting as

presented, with the exception of a grammatical correction on page 5 under Brief Enforcement Hearings section.

The motion passed 5-0.

Review of Inflationary Adjustments to Monetary Thresholds | [PDC Meeting Video](#)

Executive Director Peter Lavallee presented an inflationary adjustment analysis in which it was determined that changes from the current amounts are negligible. Director Lavallee recommended the Commission make no changes.

The Commission concurred there would be no inflationary adjustments made at this time.

Budget Update | [PDC Meeting Video](#)

The PDC remains overall underspent with Attorney General costs still remaining the largest expense for the agency.

The PDC project manager position, which was included in the Governor's budget, is proposed to be funded from the transparency fund. Director Lavallee expressed that full-time employee positions are best funded from the General Fund, and he will continue to make that argument with the Legislature. The Commission and staff also discussed two project IT positions that are funded through June 2021 and continuation of which will be part of the agency's biennial budget request.

Rulemaking and Interpretations | [PDC Meeting Video](#)

Deputy Director BG Sandahl presented four bills for which the PDC anticipates drafting rules. They are [SHB 2772](#), [SHB 6152](#), [HB 2396](#), and [ESHB 2588](#). The agency has done initial stakeholder outreach for potential F-1 rulemaking and will do additional outreach after session if rulemaking proceeds.

The Commission plans to discuss rules development at the Commission planning retreat in April.

General Counsel Sean Flynn updated the Commission on the drafting of interpretations regarding the Primary Purpose Test and Surplus Funds. The latter will be incorporated into the Campaign Finance Reporting project that is underway.

Legislative Discussion | [PDC Meeting Video](#) & [Continued](#)

General Counsel Sean Flynn updated the Commission on the status of PDC agency-request legislation and other bills of interest:

- [SHB 2772](#) Concerning the administration of election campaign activities and reporting statements of financial affairs.
- [SHB 6152](#) Concerning certification of the level of foreign national ownership for corporations that participate in Washington state elections.
- [HB 2396](#) Concerning the regulation of bot communication on public-facing internet web sites.
- [ESHB 2588](#) Improving openness, accountability, and transparency of special purpose districts.

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

10:30 a.m. The Commission conducted a hearing on requests for reporting modifications. Fox Blackhorn-Delph, Compliance Coordinator 2, presented the requests to the Commission for consideration and possible approval.

New

[Matthew Little](#) – Candidate, Council Member for Clark County [WAC 390-28-100\(d\)](#)

Multiple attempts were made to contact Matthew Little via telephone, after which the Commission took the written application into consideration.

MOTION 20-08 Moved by Commissioner Lehman and seconded by Commissioner Downing that:

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

The motion passed 5-0.

Renewal

[David Zeeck](#) – Incumbent, University of Washington Regent/Trustee [WAC 390-28-100\(1\)\(e\)\(i\)](#) & [WAC 390-28-100\(1\)\(e\)\(iv\)](#)

Chair Ammons and Commissioner Downing stated that they were acquaintances of David Zeeck through newspaper circles but would not need to recuse themselves from this particular matter.

MOTION 20-09 Moved by Commissioner Lehman and seconded by Commissioner Downing that:

The Commission grant the partial reporting modification as requested, finding that the 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 5-0.

Commissioner Lehman noted for the record that he did not feel it would be unreasonable for the public to have access to clients of a law firm when a person is in a policy-making position but he would however support this modification request because he believed it was appropriate given the information presented and Mr. Zeeck's position as a regent.

Executive Session | [PDC Meeting Video](#)

The Commission went into Executive Session at 11:10 a.m. to discuss matters allowed in Executive Session pursuant to [RCW 42.30.110](#), including but not limited to discussion of enforcement matters, and pending and potential litigation with legal counsel.

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

Enforcement Hearing (Continued) | [PDC Meeting Video](#)

Chair Ammons called the hearing to order at 1:00 p.m.

Winn Allen, Counsel for Facebook, Inc., was present on behalf of Respondent.

Chad Standifer, AAG, presented the [Proposed Stipulation and Final Order](#) for the Commission's consideration and possible approval in:

Facebook, Inc. (3), [PDC Case 47572](#) and Facebook, Inc. (5), [PDC Case 55351](#), involving alleged violations of: [RCW 42.17A.345](#) by failing to maintain documents and books of account open for public inspection during normal business hours, specifying: (a) the names and addresses of persons from whom it accepted political advertising or electioneering communications; (b) the exact nature and extent of the services rendered, as required by [WAC 390-18-050](#); and (c) the total cost and the manner of payment for the services.

Tallman Trask, Complainant in [PDC Case 55351](#), submitted written comment as well as provided public comment to the Commission. He encouraged the Commission not to move forward with the stipulation and to refer to the case to the Attorney General.

The Commission went into deliberations at 1:45 p.m. and returned to the hearing at 1:58 p.m.

The Commission reconvened and entertained a Motion from Commissioner Downing.

MOTION 20-010 Moved by Commissioner Downing and seconded by Commissioner Jarrett that:

The Commission reject the stipulation as presented and refer the matter of Facebook, Inc. (3) PDC Case 47572 and Facebook, Inc. (5) PDC Case 55351 to the Attorney General at this time pursuant to RCW 42.17A.755(4).

The motion passed 5-0.

Enforcement Updates | [PDC Meeting Video](#)

Kurt Young, Compliance Officer provided the enforcement update report for the period: January 9, 2020 to February 18, 2020.

115 Active Cases Open

103 Cases Opened during the Period

76 Cases Closed during the Period

6 Initial Hearings conducted during the Period

- 8 Cases Closed with No Evidence of Violations
- 15 Cases Closed with Reminder
- 7 Cases Closed with Formal Written Warning
- 32 Cases Closed Administratively
- 3 Cases Resolved through Statement of Understanding
- 2 Cases Scheduled for Brief Enforcement Hearing

Management Team Updates | [PDC Meeting Video](#)

Peter Lavalley, Executive Director presented updates to the Commission.

- Policy Update to Staff Political Activity Appearance of Fairness and Use of Social Media

- Onboarding Process Regarding Policies

Agency Spotlight: Customer Service Specialist 3, Colin Peebles, presented the implementation of a new jurisdiction reporting tool that allows the PDC to keep better records and allows the agency an easier and quicker path to sending F-1 reminders.

Kim Bradford, Communications and Outreach Director, provided Customer Service and Filer Assistance updates to the Commission.

- Filing Reminders
- F-1 Filer Training

James Gutholm, Chief Information Officer, reported on PDC IT activity.

- Financial Affairs Application Completion
- New Project Planning & Timeline
- Goodbye to IT Specialist Kyle Veldhuizen
- Open Recruitment for PDC Information Technology

Next Steps/Follow-up: Information Technology Staff to provide informational, recurring discussions or tutorials regarding emerging technological issues relevant to the PDC (e.g., how to capture ads on unstable platforms and general information on digital advertising developments), with potential guest speaker appearances.

Meeting adjourned at 2:48 p.m.

Approved March 26, 2020.

Next Steps/Follow-up:

- Information Technology Staff to provide informational, recurring discussions or tutorials regarding emerging technological issues relevant to the PDC (e.g., how to capture ads on unstable platforms and general information on digital advertising developments), with potential guest speaker appearances.