

State of Washington
PUBLIC DISCLOSURE COMMISSION
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MINUTES – Regular Meeting

9:30 a.m. | May 28, 2020

711 Capitol Way S. #206

Olympia, Washington

Commission Members Present (Participated via Microsoft Teams Online)

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

Staff Present (Participated via Microsoft Teams Online)

Peter Lavalley, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Sean Flynn, General Counsel; Jana Greer, Administrative Officer; James Gutholm; Chief Information Officer; Chad Johnson, Senior Financial Consultant, Department of Enterprise Services (DES); Kurt Young, Compliance Officer; Alice Fiman, Compliance Officer; Jennifer Hansen, Compliance Officer; Fox Blackhorn-Delph, Compliance Coordinator 2; Tabitha Townsend, Compliance Coordinator; Tabatha Blacksmith, Compliance Coordinator; John Meader, Assistant Attorney General representing the Commission; and Chad Standifer, Assistant Attorney General representing PDC staff.

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

[PDC Meeting Video](#)

COVID-19 update: The May 28, 2020 Public Disclosure Commission meeting was streamed live at <https://www.youtube.com/user/WASTPDC/live>.

The meeting was held remotely pursuant to the Governor's Emergency Proclamation [20-28](#) regarding COVID-19, waiving in-person meeting and access requirements.

Public Comment | **[PDC Meeting Video](#)**

A Public Comment period was noticed and announced, and a conference call line was provided for public comment during this time.

Kathy Sakahara, Democracy Team Chair of the League of Women Voters of Washington, commented (via telephone on Microsoft Teams) on the pending rules regarding [SSB 6152](#). While she had no specific recommendations or suggested changes, she voiced her concerns on the vagueness of definitions, such as partial funding and the importance of clarity to all audiences. She recommended that the Commission provide guidance on the PDC website as well as scenarios in order to aid in understanding.

Opening Remarks | **[PDC Meeting Video](#)**

Chair Ammons thanked PDC staff for their continued efforts and productivity. Chair Ammons commented on the recent decision regarding a decision to withdraw Personal Financial Affairs Statements (F-1s) from public access temporarily due to an advisory from Washington Technology Solutions (WaTech) regarding potential use of personal information. He also spoke on recent media coverage of the situation and offered his remarks.

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Executive Director Peter Lavalley and James Gutholm, Chief Information Officer, also gave their remarks on the decision to temporarily withdraw F-1s, PDC security measures, and the communications with the Governor's Office and WaTech's cybersecurity team regarding F-1 reports.

The Commission and staff discussed the matter and considered possible time frames for re-publication of the suspended reports. The Commission deferred any action on the matter to later in the meeting.

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

Meeting minutes for the April 23, 2020, regular meeting and May 21, 2020, special meeting was presented to the Commission for consideration and possible approval:

MOTION 20-038 Moved by Commissioner Downing and seconded by Commissioner Lehman that:

The Commission approve the meeting minutes for the April 23, 2020, regular meeting and the May 21, 2020, special meeting as presented.

The motion passed 5 – 0.

Budget Update | [PDC Meeting Video](#)

Executive Director Peter Lavalley discussed the current situation of the state budget due to the economic impact of the COVID-19 outbreak and the request from the Office of Financial Management to project what a hypothetical 15% cut to the agency would look like.

Chad Johnson, Senior Financial Consultant, Department of Enterprise Services (DES), provided his insight regarding the state budget and the potential of a special legislative session.

The PDC budget has a projected underspend of \$194,000 for the current fiscal year.

Rulemaking | [PDC Meeting Video](#)

Sean Flynn, General Counsel, presented the second iteration of the draft [Proposed Emergency Rules regarding SSB 6152](#) with an effective date of June 11, 2020. General Counsel Flynn recommended the Commission move forward with permanent rulemaking, using the emergency rules as a starting point and further engaging stakeholders and the public. The version submitted to the [Code Reviser](#) is available on the PDC website agenda.

MOTION 20-039 Moved by Commissioner Lehman and seconded by Commissioner Jarrett that:

The Commission adopt on an emergency basis the proposed amendments to [WAC 390-16-330](#) and [WAC 390-16-335](#) to take effect June 11, 2020, and that the Commission begin simultaneous rulemaking for permanent adoption of the same amendments.

The motion passed 5 - 0.

Management Updates | [PDC Meeting Video](#)

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[Peter Lavallee](#), Executive Director, presented updates to the Commission.

- Annual Review of Penalty Schedule
- Strategic Plan Update

Next Steps/Follow-Up: Peter to schedule a meeting with Commissioner Jarrett to discuss the agency plans for the upcoming strategic plan.

[Kim Bradford](#), Communications and Outreach Director, provided Customer Service and Filer Assistance updates to the Commission.

- Declarations Data & Process
- 2020 Personal Financial Affairs Statements (F-1s) Records Requests
- Website Usability Study

[James Gutholm](#), Chief Information Officer, provided an update on the PDC IT activity report.

- Declarations Milestone & Campaign Explorer
- Campaign Finance Project
- IT Support for Communications & Outreach Team
- Live Streaming Update

Enforcement Updates | [PDC Meeting Video](#)

Enforcement Report – Categorization and Status of Open Complaints

Kurt Young, Compliance Officer, provided the enforcement update report for the period of April 14, 2020, through May 20, 2020.

42 Active Cases Open

21 Initial Hearings have been held

21 Cases Under Assessment

Currently 44 Active Cases Open as of May 28, 2020

11 pre-effective date of House Bill 2938

33 post-effective date of House Bill 2938

14 Cases Closed during the Period

- 1 Case Closed with No Evidence of a Violation
- 4 Cases Closed with Formal Written Warning
- 9 Cases Resolved through Statement of Understanding
- 1 Case Resolved as Technical Correction

Kurt Young, Compliance Officer, provided a breakdown of statistics on compliance team time spent on the reporting modification process, and their work with filer assistance on compliance-related questions.

Next Steps/Follow-Up: Vice Chair Lehman asked for a procedural update regarding [City of Olympia PDC Case 59039](#) from September 2019 to be presented at the next commission meeting.

Request for Reconsideration Hearing | [PDC Meeting Video](#)

Fox Blackhorn-Delph, Compliance Coordinator, presented the request for reconsideration of [PDC case 64857, Washington Chapter of the National Utilities Contractors Association](#).

Liz Truong, National Utility Contractors Association, participated via phone.

During a Brief Enforcement Hearing held on February 28, 2020, the [Washington Chapter of the National Utilities Contractors Association, 64857](#), a lobbyist employer, was found to have violated [RCW 42.17A.630](#) for failure to timely file a Lobbyist Employer's Annual Expense report with the Public Disclosure Commission (PDC); this expense report disclosing 2018 lobbying activities was due to be filed with the PDC no later than February 28, 2019. At the February 28, 2020, Brief Enforcement Hearing, an order imposing a \$250 penalty was entered, which the Washington Chapter of the National Utilities Contractors Association now requests the Commission reconsider.

MOTION 20-040 Moved by Commissioner Jarrett and seconded by Commissioner Lehman that:

The Commission grant the request for reconsideration of the Order issued in PDC Case 64857, [Washington Chapter of the National Utilities Contractors Association](#).

The motion passed 5-0

MOTION 20-041 Moved by Commissioner Jarrett and seconded by Commissioner Downing that:

The Commission vacate the Order issued in PDC Case 64857, [Washington Chapter of the National Utilities Contractors Association](#).

The motion passed 5-0

Enforcement | [PDC Meeting Video](#)

Chad Standifer, Assistant Attorney General, presented the proposed Stipulation for [PDC Case 47998, Our Olympic Communities Enterprise Washington](#), involving alleged violations of [RCW 42.17A.305](#) by failing to timely file reports of electioneering communications (PDC Form C-6), totaling \$75,669, filed between 149 and 166 days late.

Dan Brady, Counsel to Our Olympic Communities Enterprise Washington; Paul Graves, President of Our Olympic Communities Enterprise Washington; and Jeanne Martin, Complainant, participated by phone via Microsoft Teams.

The Commission went into deliberations at 12:21 p.m. and returned to the enforcement hearing at 12:29 p.m.

MOTION 20-042 Moved by Commissioner Lehman and seconded by Commissioner Jarrett that:

The Commission find the respondent is now in compliance with RCW 42.17A and accept the stipulation of facts and penalty of \$14,000 with \$7,000 suspended with conditions as proposed. The unsuspended portion of the penalty shall be paid in full within 30 days from the date of the Final Order.

The motion passed 5 – 0.

Executive Session

The Commission went into Executive Session at 12:36 p.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 1:34 p.m.

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

At 1:35 p.m. the Commission conducted a hearing of requests for reporting modifications. Fox Blackhorn-Delph, Compliance Coordinator 2; Tabitha Townsend, Compliance Coordinator; Tabatha Blacksmith, Compliance Coordinator; and Jennifer Hansen, Compliance Officer, presented the requests to the Commission for consideration and possible approval.

The following individuals requested new or renewed modification (5 applicants participated by phone, via Microsoft Teams):

New

[Michael Connors](#) – School Director, Kennewick SD 017 [WAC 390-28-100\(1\)\(b\)](#)
Participated by phone via Microsoft Teams.

MOTION 20-043 Moved by Commissioner Downing and seconded by Commissioner Isserlis that:

The Commission grant the partial reporting modification as requested, on the basis that literal application of the law would cause a manifestly unreasonable hardship on the applicant and that the limited modification would not frustrate the purposes of the Act. I also move that the Commission grant the modification for the applicant’s term of office.

Modification approved for term ending: 12/2023

The motion passed 5 – 0.

[David Wyman](#) – Fire Commissioner, Cowlitz Fire Protection District 05 [WAC 390-28-100\(1\)\(d\)](#)
Participated by phone via Microsoft Teams.

MOTION 20-044 Moved by Commissioner Lehman and seconded by Commissioner Isserlis that:

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

The motion passed 5 – 0.

[Timothy Fitzgerald](#) – County Clerk, Spokane County [WAC 390-28-100\(1\)\(d\)](#)
Participated by phone via Microsoft Teams.

Commissioner Isserlis noted she is acquainted with Mr. Fitzgerald and recused herself from this matter.

MOTION 20-045 Moved by Commissioner Downing and seconded by Commissioner Jarrett that:

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

The motion passed 4 – 0. Chair Ammons, Vice Chair Lehman, Commissioner Jarrett, and Commissioner Downing voted to deny the request.

Commissioner Isserlis recused Herself.

[Jeremy Kirk](#) – School Director, Kelso SD 458 [WAC 390-28-100\(1\)\(d\)](#)

MOTION 20-046 Moved by Commissioner Downing and seconded by Commissioner Isserlis that:

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

Modification approved until: 12/2019

The motion passed 5 – 0.

Renewal

[Kelli Curtis](#) – City Council, City of Kirkland [WAC 390-28-100\(1\)\(e\)\(iv\)](#)

Curtis Blake Participated by phone via Microsoft Teams.

MOTION 20-047 Moved by Commissioner Downing and seconded by Commissioner Isserlis that:

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

Modification approved for term ending: 12/31/2023

The motion passed 5 – 0.

[Lisa Janicki](#) – County Commissioner, Skagit County & State Board/Commission Member, Forest Practices Board – DNR [WAC 390-28-100\(1\)\(e\)\(iv\)](#)
Participated by phone via Microsoft Teams.

MOTION 20-048 Moved by Commissioner Jarrett and seconded by Commissioner Lehman that:

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

Modification approved for term ending: 12/31/2022

The motion passed 5 – 0.

[Steven Hill](#) – Regent/Trustee, Seattle Colleges [WAC 390-28-100\(1\)\(b\)](#)

MOTION 20-049 Moved by Commissioner Jarrett and seconded by Commissioner Lehman that:

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

Modification approved until: 9/2022

The motion passed 5 – 0.

Next Steps/Follow Up: Tabitha Townsend to correct clerical error in cover sheet for applicant Lisa Janicki.

Continued Discussion and Possible Commission Action Regarding Financial Affairs Disclosure Online Availability | [PDC Meeting Video](#)

The Commission continued the discussion on the decision to remove access to personal financial affairs reports (F-1s) from the PDC website, and when they could potentially be reinstated for public viewing without request.

The Commission decided to allow ample time for those with concerns to come forward with any supporting evidence as to why the reports should remain offline.

MOTION 20-050 Moved by Commissioner Lehman and seconded by Commissioner Downing that:

The Commission make Personal Financial Affairs Statements available online as of June 26, 2020.

The motion passed 4 – 1.

Vice Chair Lehman, Commissioner Downing, Commissioner Jarrett, and Commissioner Isserlis voted yes.

Chair Ammons voted no.

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Briefing on Modification Policy | [PDC Meeting Video](#)

Vice Chair Lehman noted he and Commissioner Isserlis would present this topic at the October regular meeting.

Meeting adjourned at 3:28 p.m.

Approved June 25, 2020.

Summary of Next Steps/Follow Up:

- Peter to schedule a meeting with Commissioner Jarrett to discuss the agency plans for the upcoming strategic plan.
- Vice Chair Lehman asked for a procedural update regarding [City of Olympia PDC Case 59039](#) from September 2019 to be presented at the next commission meeting.
- Tabitha Townsend to correct clerical error in cover sheet for applicant Lisa Janicki.