



**State of Washington  
PUBLIC DISCLOSURE COMMISSION**

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MINUTES – Regular Meeting

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

9:30 a.m.

December 04, 2014

COMMISSION MEMBERS PRESENT

Grant Degginger, Chair  
Katrina Asay, Vice Chair  
Amit Ranade, Member  
Kathy Turner, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director  
Tony Perkins, Acting Assistant Director  
Phil Stutzman, Director of Compliance  
Lori Anderson, Communications & Training Officer  
Chip Beatty, Filer Assistance Specialist  
Callie Castillo, Assistant Attorney General  
Linda Dalton, Sr. Assistant Attorney General

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

Opening Comments

Commissioner Degginger called the meeting to order.

Citizens Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

Chair Degginger recognized Commissioner Turner for her service at the PDC and thanked her for her experience, commitment and dedication.

Commissioner Turner expressed her thanks and commented on how impressed she is with the staff's performance and ability to do so much with so little resources.

Commissioner Degginger announced Governor Inslee's two recent appointments of Commissioners for the PDC: John Bridges who will be filling the vacancy created by Barry Sehlin, and Anne Levinson who will be filling the position when Kathy Turner's appointment expires December 31.

Both Commissioners will attend the January 2015 regular commission meeting.

Commissioner Degginger reported on his participation at a forum on election law issues put on by the League of Women Voters of Snohomish

**Minutes**

**Motion 14-152**

county. The event was very well attended by an estimated 100 attendees. Senator Liias participated as well.

Moved by Commissioner Ranade, seconded by Commissioner Asay that:

**The Commission adopt the minutes of October 23, 2014 regular meeting.**

The motion passed, with Commissioner Degginger abstaining, as he was not in attendance on October 23, 2014.

**Rulemaking**

1. Public hearing and possible adoption:

- Disclosing Lobbying Expenditures/Legislative Receptions:
  - WAC 390-20-020 Forms for lobbyist report of expenditures
  - WAC 390-20-020A L-2 reporting guide for entertainment
- Personal Financial Affairs Disclosure/inflationary adjustments to dollar amounts
  - WAC 390-16-071 Annual report of major contributors and persons making independent expenditures
  - WAC 390-20-110 Forms for lobbyist employers report
  - WAC 390-24-010 Forms for statement of financial affairs
  - WAC 390-24-020 Forms for amending statement of financial affairs
  - WAC 390-20-110 Forms for compensation from sales commission
  - WAC 390-24-301 Changes in dollar amounts of reporting thresholds and value codes
- Personal Financial Affairs/Defining "officer"
  - WAC 390-24-150 Definition - Officer

A public hearing was held for the purpose of rule making.

Lori Anderson presented proposed new and amended rules to the Commission for possible adoption.

She noted a revision and presented it to the Commission at the meeting. Miss Anderson stated that she had received input from the a lobbyist about proposed new WAC 390-20-020A, where it was pointed out that there was an error in regards to how golf outings were treated differently from any other entertainment.

The proposed WAC 390-20-020A included revised language for consideration.

Miss Anderson summarized the comments submitted by Carol Weist, Washington Public Utility Districts Association (WPUDA) staff, describing the difficulty of keeping track at a legislative reception of who is attending. WPUDA encouraged the Commission to eliminate the requirement for the attendee list when legislative receptions are disclosed.

Steve Gano, Gano and Associates, addressed the Commission in regards to the proposed rule. He stated that requiring an attendee list from a legislative reception is unpractical and there is concern that an attendee will be missed. These are very large events, and upward to 300 individuals often attend.

Mr. Gano concurs with the WPUDA and suggests the elimination of the requirement for an attendee list to be submitted when legislative receptions are

disclosed.

Patrick O'Connor, State Director of the National Federation of Independent Business, addressed the Commission. He concurs with the concerns identified by Mr. Gano.

Mr. O'Connor stated that the focus of the rule should be on the invitees and not on the actual attendees. He suggested that the list disclose who was invited to the event and the sign-in sheet reflect those that actually signed in to the event as attended.

This would show greater context of whom was invited and who attended.

Commissioner Degginger asked if the Commission has the ability under their rulemaking authority to not require identification of the Legislators that attend this type of event.

Lori Anderson noted that the proposed rulemaking would eliminate the requirement of the per person cost to be disclosed. She also stated that the Commission does have the authority to change the proposed language.

Commissioner Ranade suggested language be added to reflect that attaching a list of the attendees is sufficient to comply with this requirement.

Staff recommended adoption of the revised proposals as modified.

Moved by Commissioner Ranade, seconded by Commissioner Turner that:

**The Commission adopt the revised proposal to amend WAC 390-20-020 and WAC 390-20-020A as modified.**

The motion passed by a vote of three to one with Commissioner Asay voting no.

**Motion 14-153**

Personal Financial Affairs

Ms. Anderson presented the proposed dollar adjustments to the personal financial disclosure thresholds.

She identified the other forms are included in the proposed amendment: WAC 390-16-071; WAC 390-20-110; WAC 390-24-010; WAC 390-24-301; and presented a proposed new rule to define officer for the purposes of the financial disclosure, WAC 390-24-150.

**Motion 14-154**

Moved by Commissioner Ranade, seconded by Commissioner Asay that:

**The Commission adopt new rule WAC 390-24-150 as proposed.**

The motion passed unanimously.

**Motion 14-155**

Moved by Commissioner Ranade, seconded by Commissioner Turner that:

**The Commission amend the following rules as proposed: WAC 390-16-071; WAC 390-20-110; WAC 390-24-010; WAC 390-24-020, WAC 390-24-202 and WAC 390-24-301.**

The motion passed unanimously.

2. Preliminary discussion –Applying Limits to Contributions Made to Affiliated Committees and Necessary Updates to 1994 Policy Statement.

To accommodate other agenda items this discussion items was deferred to the January regular Commission meeting.

**Commissioner Training**

Lobbyist & Lobbyist Employer Registration

Chip Beatty presented a review of the lobbyist and lobbyist employer registration process.

Mr. Beatty outlined the staff process and reporting requirements for 2015-2016 Biennium.

Public Agency Lobbying

To accommodate other agenda items this discussion items was deferred to the January regular Commission meeting.

Copies of the presentation were provided to the Commission for review.

**2014 Election**

Preliminary highlight summary of contribution and expenditures

Lori Anderson introduced guest speakers Jim Camden, Capitol Bureau Chief for the Spokesman Review and Austin Jenkins, Political Reporter for National Public Radio. The speakers summarized their view of the preliminary highlights of the 2014 Election.

Mr. Camden noted an item he found most interesting, the large amount of funds received for the Initiative campaigns. He noted that of an estimated \$28 Million, a third of the contributions were over the \$10,000 amount.

Mr. Camden stated that the Initiative campaigns were designed as a check on the Legislature so the public could enact legislation that the Legislature would or could not.

Initiatives were not created or intended to have vested interests funding Initiative campaigns. He noted that he believes that I-594 may not have passed without all of the vested interest contributions it received.

Mr. Camden noted that this will be an item to watch for future campaigns.

Austin Jenkins stated that the flip-side is the Initiatives are the easiest to track the funding. Example, Costco's significant contributions to the Liquor privatization measure, and Nick Hanauer and his friend's financial support for the recent gun control measure.

Ultimately the voters approve these initiatives, but it is evident who's funding the campaigns. He stated that it would be of interest to poll the public to determine how much the public pays attention to this.

Mr. Jenkins concurred that, it seems that the intent of the Initiative process has veered astray.

Mr. Jenkins noted that the most difficult campaign funding to track is the source of independent expenditures (IE). Veteran politicians in Washington state have complained to him about the state of affairs of the IE's.

He continues to hear the argument that "caps" have led to this environment where it is all about the IE.

It can be difficult and is not always possible to track the true source of a lot of IE's. Mr. Jenkins stated that he is not sure that the public has the capacity to really process and understand this information the way it is currently presented.

He suggested that it is time to reconsider revisiting the reforms that were enacted in 1992. He is surprised that there has not been a new initiative on this topic and has not heard any discussions.

It would be an interesting question whether the raising or removal of contribution limits would cause independent spending to subside.

Mr. Jenkin's shared his IE analysis that compared the results of negative and positive IE's. He found that negative campaigns were far more successful.

Commissioner Degginger asked for the speakers

thoughts on social media and its impact on the election.

Mr. Camden responded that its impact is growing. He expects campaign use of social media to increase in the coming years.

Mr. Jenkins commented that it can be difficult to lean who creates Facebook pages and websites used in negative campaigns.

Commissioner Ranade asked the speakers to elaborate on the dollar amount spent on this past election and the fact that this was one of the lowest voter participation. Is the Electorate being turned off by the negative campaigning?

Mr. Camden stated that this is not the biggest factor although, negative campaigns suppress votes to a certain extent. He believes the low voter turnout is more a function of relatively few "BIG" issues and races on the ballot.

Mr. Jenkins agreed and noted that the Secretary of State reports statistics of the ebbs and flows. This reflects the percentage of eligible voters who are registered that has dropped noticeably since the 1950's. People are getting turned-off and losing interest before they even register to vote.

Commissioner Degginger stated that the PDC has an information function and strives to provide as much information to the public as possible. The PDC is always interested in suggestions for improving access and improve how the public, candidates, and the media are served.

Mr. Camden highlighted the need to search campaign contributions by zip code. Currently the information is either not there or there is only 4-digits as opposed to the complete information.

He suggested not allowing reports to be filed unless a complete zip code is included for each contribution.

Mr. Jenkin's stated that PDC has not been able to make necessary upgrades to their systems. He does not think the PDC website is friendly. He often asks PDC staff for help with navigating the website.

It would be helpful to have more direct links to contributor information. A real-time dashboard

should be used to highlight record contribution amount and other interesting data. This will allow the reporters to report on what is happening in real-time.

Mr. Camden stated that those do use the PDC website are used to it. It would be beneficial to have the public be able to one-click to see real-time information. Making the drill-down to find information easier.

Commissioner Degginger stated that a priority for the PDC is to dramatically improve its technology, which is a great source of frustration for the Commission and all that utilizes the data.

He thanked the speakers for participating and sharing their perspectives.

General overview of complaints received during election cycle.

Tony Perkins presented an overview of the types of complaints PDC received during the 2013-2014 State candidate's election cycle.

218 complaints received, alleging violations of RCW 42.17A.38 of these complaints resulted in formal investigations (to date).

Of these complaints the highest incidence in 2013 involved late reporting of contributions and expenditure activity.

During the 2014 reporting periods, these types of complaints increased by one third. The next highest category of complaints involved the alleged use of public agency facilities to assist candidate's campaign or to promote or oppose a ballot proposition.

The 2014 election reared the incidents of complaints involving sponsor ID became the highest type of incident reported.

Mr. Perkins provided the Commission with a report that reviewed statistics and developments regarding types of complaints.

### **Legislative/Budget Update**

Andrea McNamara Doyle provided an additional update to her written report submitted in the meeting materials.

The Senate majority coalition caucus has elected its new leadership for the upcoming Legislative session. Mark Schoesler has been elected as the Caucus Leader for the Republican caucus and the

Majority Leader for the coalition caucus.

She noted other recent changes in the coalition majority leadership.

The committees, both House and Senate are likely to do some restructuring between now and January 2015.

Ms. Doyle stated that in light of the two new gubernatorial appointments to the PDC, the PDC will be seeking confirmation hearings.

She also noted that she had attended the Legislative Ethics Board (LEB) Meeting where they are continuing to discuss the issue of reporting of complimentary meals to legislators that are paid by Lobbyists. The Board has taken action to move ahead with agency-request legislation that would propose to change the reporting requirements that are in the PDC's law to reflect meals that are paid for by lobbyist or lobbyist employers for a legislator regardless of value.

Ms. Doyle noted that this is expected to be an LEB agency-request bill for the upcoming legislative session.

Ms. Doyle and Commissioner Degginger will attend a work session in the House Government Operations and Elections Committee on 12/23/14 to discuss the PDC's Information Technology budget needs.

Ms. Doyle informed the Commission that she has no updated information on the 2015-2016 Budget for the agency. It is anticipated that more information regarding the PDC's proposed budget will be available once the Governor's budget is released December 20, 2014.

## **Staff Reports**

### **Executive Director**

Ms. Doyle noted that she and Tony Perkins will attend the 2014 COGEL conference in Pittsburgh. She is looking forward to talk with other colleagues from other states about similar PDC issues.

New Commissioner orientation is planned for the newly appointed Commissioners. Both Commissioners will attend the January 2015 regular



commission meeting.

Ms. Doyle provided an update on the open recruitment for the ITS 3 and the need to expand the advertising. A temporary IT Specialist is working in the interim to assist with small projects.

She also noted that a temporary hire is in process for a Political Finance Specialist to assist the Compliance division with resolving and completing a number of complaint returns and dismissals that are currently in backlog.

Ms. Doyle announced that the PDC has been notified by the State Auditor Office that an accountability audit is scheduled for the PDC. She also noted that the SAO is also planning on a performance audit of administrative hearings and the independence of the hearings process. There is a scoping process underway and she will be attending the upcoming informational meeting.

### **Compliance and Enforcement**

Phil Stutzman summarized the complaints between October 16 and November 24, 2014.

He noted the new investigations that were open and provided the outcome of the brief enforcement hearings.

### **Communications and Outreach**

Lori Anderson reported on the Outreach Staff's work.

Currently staff is in the process of wrapping-up from the 2014 final elections to make sure that those that are required to file have done so.

Ms. Anderson stated that she has spoken to different groups regarding public agency lobbying. Information is sent out to the agency's reminding them of the reporting obligation and deadlines.

This is the first year that Ms. Anderson will be the one preparing the Fact Book for the PDC. The book has information pertaining to even numbered elections. Past Fact Books are available on the PDC website.

### **2015 Proposed Commission Meeting Schedule**

Ms. Doyle presented a proposed meeting schedule for the 2015 regular Commission meeting dates.

Meeting dates will be filed with the Code Revisor.

### **Executive Session**

The Commission went into Executive Session at 11:55 a.m. to discuss pending and potential

litigation with legal counsel and returned at 1:07 p.m.

### **Enforcement**

1. *National Association of Realtors Fund*, Case No. 14-009 involving alleged violations of RCW 42.17A.260 and RCW 42.17A.305 by failing to timely file C-6 reports of Electioneering Communications and Independent Expenditure Political Advertising for direct mail advertising and related polling and consulting expenses, advocacy phone calls, and online advertising for candidates in the 2013 general election, totaling \$125,100.

Commissioner Asay disclosed that she is a member of the National Association of Realtors through being a member of the King County Realtors Association and she believes she can be fair and impartial and asked if there were any objections with her participation.

No objections were made.

Phil Stutzman presented a proposed Stipulation of Facts, Violations and Penalty for Commission consideration.

Mr. Stutzman summarized the alleged violations of failing to timely file C-6 reports of Electioneering Communications and Independent Expenditure Political Advertising for more than \$125,000 worth of direct mail, advocacy phone calls and online advertising, and related polling and consulting expenses, supporting eight candidates for local office in the November 5, 2013 general election.

Staff recommended a penalty in the amount of \$10,000 with a suspended amount of \$7500 with no further violations for four years and that the non-suspended portion be paid in full within 30-days.

Staff recommended acceptance of the Stipulation of Facts, Violations and Penalty as presented.

Mark Lamb, Counsel, represented the NAR and participated in person. He stated that his client does take the requirement very seriously and deeply regrets the unintentional error and has taken steps to put in place training for all staff members that are involved in reporting in the future.

The Commission went into closed session to deliberate on the matter.

Commissioner Degginger stated that with “big” money comes “big” responsibility. This is the type of Independent expenditures that affect local elections. The message has to be very clear that this is not acceptable to deprive the public the opportunity to fully evaluate the source of the funding.

Moved by Commissioner Turner, seconded by

Commissioner Ranade that:

**The Commission accept the Stipulation of Facts, Violations, and Penalty as proposed.**

The motion passed unanimously.

2. *Lucy DeYoung and Ethical Woodinville*, Case No. 14-008 involving alleged violations of RCW 42.17A.305 for failing to timely report electioneering communications and Independent Expenditure Political Advertising for direct mail advertising and related advocacy phone calls; RCW 42.17A.320 for failing to include proper sponsor identification on the electioneering communications and Independent Expenditure Political Advertising; and RCW 42.17A.435 for concealing the identity of the source of funds of the sponsor of the electioneering communications and Independent Expenditure

Tony Perkins presented a proposed Stipulation of Facts, Violations and Penalty for Commission consideration.

Mr. Perkins summarized the alleged violations by Lucy DeYoung for failing to timely file C-6 reports of Electioneering Communications and Independent Expenditure Political Advertising for more than \$14,000 worth of direct mail and advocacy phone calls opposing Bernie Talmas, a candidate for Woodinville City Council in the November 5, 2013 general election.

Alleged violations also involve failure to include her name and the required sponsor identification for the Independent Expenditure Political Advertising, and for concealing her identity as the source of the more than \$14,000 expenditures for the Electioneering Communications and Independent Expenditure Political Advertising by using the pseudonym "Ethical Woodinville."

Staff recommended that the Commission accept the proposed Stipulation as to Facts, Violation, and Penalty. The proposed penalty is for \$40,000 with \$30,000 suspended on the condition that Ms. DeYoung not commit any further violations of RCW 42.17A within four years from the date of the final order, and that the non-suspended portion is paid within 30-days.

Mark Lamb, Counsel for Lucy DeYoung, addressed the Commission. Lucy DeYoung was also present. Mr. Lamb stated Ms. DeYoung understands the seriousness of the violations and the importance of compliance. Ms. DeYoung is willing to accept the Stipulation as proposed.

Bernie Talamas, attorney, addressed the Commission.

Commissioner Ranade noted that the final C6 that is due has still not been submitted and will need to be filed by the close of business on 12/05/14. He recommended that this additional condition should noted as condition "C" to the suspended portion of the penalty proposed.

**Motion 14-157**

Moved by Commissioner Ranade, seconded by Commissioner Turner that:

**The Commission accept the Stipulation of Facts, Violations, and Penalty as proposed with the modification as discussed for condition C.**

The motion passed unanimously.

Commissioner Degginger noted that this is troubling behavior and the penalty amount reflects this. This significant penalty reflects that this is not appropriate behavior and hopefully a very hard lesson to learn.

**Adjournment**

The meeting adjourned at 1:30 p.m.

**Approved by the Commission on January 22, 2015.**