



**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.

October 23, 2014

COMMISSION MEMBERS PRESENT

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

STAFF PRESENT

Andrea McNamara Doyle, Executive Director  
Linda Dalton, Sr. Assistant Attorney General  
Callie Castillo, Assistant Attorney General  
Chad Standifer, Assistant Attorney General  
Lori Anderson, Communications & Training Officer  
James Gutholm, Chief Information Officer  
Phil Stutzman, Director of Compliance  
Tony Perkins, Acting Assistant Director

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

Opening Comments

Commissioner Asay called the meeting to order.

Citizens Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

No comments or concerns were expressed

Minutes

Moved by Commissioner Ranade, seconded by Commissioner Turner that:

**Motion 14-150**

**The Commission adopt the minutes of September 25, 2014 regular meeting.**

The motion passed unanimously.

Enforcement

Executive Director Andrea McNamara Doyle announced that the enforcement matters for the Commission's consideration will be presented in a different order than published on the agenda to accommodate recent developments.

Staff asked that the Commission address the matters of Mark McCrady, PDC Case No. 13-022, and Brian Skeahan, PDC Case No. 15-039, for which full Stipulations were received.

- 1) **Mark McCrady, Former Cowlitz PUD Commissioner**, Case No. 13-022 involving an alleged violation of RCW 42.17A.555 by using the facilities of Cowlitz PUD to assist his 2012 reelection campaign in the November 6, 2012 general election by: (a) using and authorizing the use of Cowlitz PUD facilities (staff time, camera, vehicles, and other facilities) for a photo shoot that occurred in May of 2012; and (b) using or authorizing the use of Cowlitz PUD facilities (staff time, computers, and other facilities) to prepare a briefing document in September 2012 for McCrady's use during local newspaper editorial board interviews.

Commissioner Asay reviewed preliminary matters and hearing rules. The hearing was open to the public.

Mark McCrady was present and a participant at the hearing.

Phil Stutzman, Director of Compliance, presented the proposed Stipulation as to facts and violations along with comparables for the Commission's review.

Mr. Stutzman reported on the background and summary of the allegations noting that just two of the allegations are addressed in the proposed Stipulation. Staff recommends that the Commission dismiss remaining allegations.

Staff recommends and the Stipulation includes a \$500 penalty with no amount suspended since Mr. McCrady is no longer in office and does not intend to run again.

Commissioner Ranade asked Mr. McCrady if he agrees to the content of the Stipulation. Mr. McCrady stated that he did agree and that it is time to get this done and put into the past.

Commissioner Ranade opined that the amount of the recommended penalty seemed too high. After reviewing the comparables, he stated that he was inclined to accept the Stipulation with a reduced penalty amount.

Commissioner Turner commented that it shows honesty that once the mistake was recognized, the photos were not used. She appreciates Mr. McCrady's honesty and integrity in that decision. She agrees with Commissioner Ranade in a reduced amount for penalty.

#### **Motion 14-151**

Moved by Commissioner Ranade, seconded by Commissioner Turner that:

**The Commission accept the proposed Stipulation as to Facts, Violation, and Penalty with modification to paragraph 18 as follows: the penalty should remain \$500, but with \$250 suspended on the condition of no further violations within the next four years and the non-suspended portion to be paid within 30-days from the final order.**

The motion passed unanimously.

Commissioner Asay asked the parties if they accept the Commission's modifications to the Stipulation, which they did.

Commissioner Asay reviewed preliminary matters and hearing rules. The hearing was open to the public.

Brian Skeahan was present and a participant at the hearing.

Phil Stutzman presented the proposed Stipulation as to facts and violations along with comparables for the Commission's review.

Mr. Stutzman reported on the background and summary of the allegations. Mr. Stutzman explained that while Mr. Skeahan admits to no wrong doing, he stipulated that the Commission would likely find a violation of RCW 42.17A.555, and he has agreed to pay a civil penalty. Staff recommends and the Stipulation includes a penalty of \$1000, \$500 for each violation with \$500 suspended for a duration of 4 years with no further violations.

Mr. Skeahan stated that the Stipulation speaks for itself and that he had no additional information to add.

Commissioner Ranade asked Mr. Skeahan if he had reviewed the content of the proposed Stipulation prior to signing.

Mr. Skeahan confirmed that he had and agreed to what was presented to the Commission.

Moved by Commissioner Ranade, seconded by Commissioner Turner that:

**The Commission accept the proposed Stipulation as to Facts, Violation, and Penalty with modification to paragraph 18 as follows: the penalty should be reduced to \$500, with a suspended amount of \$250 on the condition of no further violations within the next four years and the non-suspended portion to be paid within 30-days from the final order.**

The motion passed unanimously.

- 2) **Brian Skeahan, Former Cowlitz PUD General Manager, Case No. 15-039** involving an alleged violation of RCW 42.17A.555 by using the facilities of Cowlitz PUD to assist the 2012 reelection campaign of Mark McCrady in the November 6, 2012 general election by: (a) authorizing the use of Cowlitz PUD facilities (staff time, camera, vehicles, and other facilities) for a photo shoot that occurred in May of 2012 ; and (b) using or authorizing the use of Cowlitz PUD facilities (staff time, computers, and other facilities) to prepare a briefing document in September 2012 for McCrady' s use during local newspaper editorial board interviews.

**Motion 14-150**

- 3) **Tom Albro**, *Port of Seattle*, Case No. 14-006 involving an alleged violation of RCW 42.17A.555 by using and authorizing the use of Port of Seattle facilities to play recorded audio messages featuring incumbent port commissioners Tom Albro, Stephanie Bowman, John Creighton, and Courtney Gregoire over the public address system at Seattle-Tacoma International Airport between April and October of 2013, and in so doing, assisting the commissioners' campaigns for election or reelection in 2013.
- 4) **John Creighton**, *Port of Seattle*, Case No. 15-032 involving an alleged violation of RCW 42.17A.555 by using Port of Seattle facilities to play a recorded audio message featuring incumbent port commissioner John Creighton over the public address system at Seattle-Tacoma International Airport between May and October of 2013, and in so doing, assisting his campaign for election or reelection in 2013.
- 5) **Courtney Gregoire**, *Port of Seattle*, Case No. 15-033 involving an alleged violation of RCW 42.17A.555 by using Port of Seattle facilities to play a recorded audio message featuring incumbent port commissioner Courtney Gregoire over the public address system at Seattle-Tacoma International Airport between April and October of 2013, and in so doing, assisting her campaign for election or reelection in 2013.
- 6) **Stephanie Bowman**, *Port of Seattle*, Case No. 15-034 involving an alleged violation of RCW 42.17A.555 by using Port of Seattle

Linda Dalton. Sr. Assistant Attorney General, representing PDC staff, addressed the Commission and stated that the four respondents in the Port of Seattle cases will present individual motions to the Commission for consideration.

Commissioner Asay reviewed preliminary matters and hearing rules. The hearing was open to the public.

Tom Albro, John Creighton, Stephanie Bowman, and Courtney Gregoire participated in person.

Tom Albro, John Creighton, Stephanie Bowman, and Courtney Gregoire individually requested a continuance of the hearing to allow time for consideration of additional facts relevant to the matter that are not currently part of the record.

Ms. Dalton presented the PDC Staff objection to the request for continuance in each matter. Staff is ready to proceed with the information that has been properly prepared and placed before the Commission.

Ms. Dalton reviewed the background and timeframe of the cases being presented today. PDC Staff recommends the Commission rejects the continuance request in each matter and reject the request for any additional materials to be presented for consideration that were not submitted in accordance with the Commission rules.

Staff requested that, in the alternative, if the continuance is granted, and/or additional materials are accepted, sufficient time be granted for review and evaluation.

Commissioner Ranade asked the respondents for clarification on why the additional materials were not submitted by the initial due date.

Mr. Albro stated that the notice of this enforcement hearing states, "If you do not plan to be present at the hearing, you may submit evidence on your own behalf no later than Noon on Thursday September 18<sup>th</sup>." He stated that at no time was he informed that he would not be able to present material that would substantiate what was represented in the emails he had provided to PDC staff.

facilities to play a recorded audio message featuring incumbent port commissioner Stephanie Bowman over the public address system at Seattle-Tacoma International Airport between May and October of 2013, and in so doing, assisting her campaign for election or reelection in 2013.

Mr. Albro feels that the additional information will provide valuable context.

Courtney Gregoire stated that she understood that if they had relevant information that speaks to the context of the facts, they would be able to present it at today's meeting.

Andrew Pilloud, the complainant, addressed the Commission urging the Commission to not grant the continuance.

The Commission went into closed session at 10:30 a.m. to discuss the matters at hand and will return at 10:40 a.m.

#### **Motion 14-151**

Moved by Commissioner Ranade, seconded by Commissioner Turner (as amended after discussion) that:

**The Commission grant the request for continuance of PDC Case No. 14-006, 15-032, 15-033, and 15-034, with the following pre-hearing schedule:**

- **PDC Staff amendment of charges, if any, is due by November 14, 2014.**
- **All new evidence and information needs to be exchanged by the parties by January 2, 2015.**
- **A status conference following the PDC January 22, 2015 regular commission meeting.**
- **All briefs and supporting evidence due February 18, 2014.**
- **Hearing to be held on February 26, 2015.**

The motion passed unanimously.

Commissioner Ranade directed the staff to make consistent with the WAC rules, the submission of evidence, to address the confusion noted by Mr. Albro.

He stated that he reviewed the materials submitted already and feels that a charge of RCW 42.17A.575 would be appropriate for PDC staff to consider as well.

Commissioner Turner agrees and supports Commissioner Ranade's statement.

**Executive Session**

The Commission went into Executive Session at 11:01 a.m. to discuss pending and potential litigation with legal counsel and returned at 12:25 p.m.

**Legislative/Budget Report**

Andrea Doyle noted a correction to her written report identifying the legislative committee days are December 4 and 5, 2014 for the House of Representatives. The House State Government and Elections Committee has asked the PDC to present at the meeting on the 5<sup>th</sup> on the state of the PDC's technology needs.

Ms. Doyle reported on possible additional bills that were not outlined in her memo to the Commission and may be introduced in the upcoming legislative session.

Ms. Doyle noted that she will continue to use the PDC Legislative Principles as a guide, adopted by the Commission last year, when responding to inquiries and answering questions, about the Commission's position on bills. She asked the Commission to review the principles and comment if there are any needed changes or additions prior to the upcoming legislative session.

Ms. Doyle confirmed that the gubernatorial appointments for Commissioners Asay and Degginger will be reassigned new numbers this session.

Ms. Doyle reported on budget related items and noted that James Gutholm, CIO, will be attending a meeting with the Office of the Chief Information Officer to explain and advocate for the PDC IT related budget decision packages. The information from this meeting will help inform the Governor in the development of his budget.

She noted that PDC had received notice of the scheduling of an accountability audit by the State Auditor's Office. The PDC may be submitting a supplemental budget request to address the mandatory accountability audit performed by the State Auditor's office since funds were not allocated for in the current biennial budget as they customarily are for small agencies scheduled for

audits.

### **Compliance Manual Update**

Tony Perkins, Assistant Director, updated the Commission on the status of creating a Compliance Manual (strategic plan item 4.2).

Mr. Perkins reported that Staff anticipates having a completed version of the manual available in the summer of 2015. This version would continually be updated as needed.

### **Strategic Plan**

Andrea Doyle provided a status report of items in the strategic plan. She asked the Commission for input or thoughts of priority of the remaining items to complete in the strategic plan.

Ms. Doyle reviewed the performance measures data and noted the reasoning behind the information. She invited the Commission to provide input in identifying targets for the upcoming year.

She noted that in her view, some of the current performance measures are meaningful and some are not. Ms. Doyle asked the Commission to consider if there are other performance measures that would be a more affective and appropriate gauge of the PDC.

Commissioner Ranade noted that it is important that the PDC compliance rates are shown. If the compliance targets are met, then the education in place is working.

Commissioner Assay would like to capture the PDC efforts that go into reminding filers and how it adds to the compliance rates.

The Commissioners discussed/whether time is better spent creating online training materials compared to continuing in-house training. Due to limited staff time, new and updated videos have not been produced.

Lori Anderson provided an overview of in-house and out-of-office training feedback provided. She noted that with a reduction of travel monies in the PDC budget, it has been necessary to create other ways to produce and provide the information.

Commissioner Ranade stated that it would be more useful to measure how many individuals are watching the training videos not how many are produced.

Commissioner Turner commented that the training videos are something that will always need to be updated and in person training offers a greater impact.

Ms. Doyle also discussed the moderate success of the performance measure regarding the triage of new and existing complaints.

Commissioner Ranade recommended that context for the performance measure data be given in the report.

Ms. Doyle noted that the percentage of lobbyists electronically filing this year is the same as last year. Lobbyists continue to express an interest and willingness to electronically file, but continue to run into problems. She noted that this is a very concerning message to the PDC.

Ms. Doyle reported on accessing the PDC website and data. She stated that the decrease has to do with the cycle of the races.

### **Staff Reports**

#### **Executive Director**

Ms. Doyle reported on the PDC Commission vacancy and impending vacancy. She remains in contact with the Governor's office and will report information once it is received.

Ms. Doyle announced that there is an open recruitment for an Investigator 3 position, which will replace the vacancy that was created when Tony Perkins accepted the acting Assistant Director position.

Ms. Doyle asked the Commission to consider attending the upcoming House Government Operations and Elections Committee work session to discuss PDC's IT and reporting needs.

#### **Chief Information Officer**

James Gutholm, Chief information Officer, reported on the roll out of new PC's to staff. He thanked the Data entry staff with assisting with the trial/testing of the PC's. He discussed the upcoming transfer of information to the Microsoft Cloud.

He discussed the upcoming meeting with the Office of the Chief Information Officer and the criteria that will be used to score the PDC's budget requests. This information will be sent to the Governor's office and used for consideration in budget planning.



Mr. Gutholm thanked the Outreach staff for going above and beyond with the assistance in the rebuilding of the ORCA application on a very short notice.

**Compliance and Enforcement**

Phil Stutzman reported on the brief enforcement hearing held immediately before the Commission meeting. He also updated his written report with additional complaints received since it was sent out.

**Communications and Outreach**

Lori Anderson highlighted the Outreach staff's work and expressed the patience that they have shown during this busy filing period.

Ms. Anderson reported on the media coverage and questions generated from complaints.

**Adjournment**

The meeting adjourned at 1:20 p.m.

**Approved by the Commission on December 4, 2014.**