

**State of Washington
PUBLIC DISCLOSURE COMMISSION**

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MINUTES – Regular Meeting

9:30 a.m.

April 27, 2017

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

Commission Members Present

Anne Levinson, Chair; John Bridges, Vice Chair; Katrina Asay, Member; Jack Johnson, Member; David Ammons, Member

Staff Present

Evelyn Fielding Lopez, Executive Director; Kim Bradford, Communications and Outreach Director; BG Sandahl, Deputy Director; Penny Allen, Assistant Attorney General; Kurt Young, Compliance Officer; Phil Stutzman, Compliance Officer; James Gutholm, Chief Technology Officer; Jana Greer, Executive Assistant; Chip Beatty, Filer Specialist

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

Public Comment | [PDC Meeting Video](#)

Glenn Morgan addressed the Commission and asked the Commission to consider including an opportunity for complainants to present their perspective on complaints that they have filed.

Introduction of Communications and Outreach Director | [PDC Meeting Video](#)

Chair Levinson introduced Kim Bradford, the new PDC Communications and Outreach Director. Ms. Bradford comes to the PDC after 22 years as a journalist with the Tri-City Herald and the News Tribune.

Meeting Minutes | [PDC Meeting Video](#)

Meeting minutes from March 23, 2017 regular Commission meeting.

Motion 17-019 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission approve the March 23, 2017 meeting minutes.

The motion passed.

2017 F-1 Status Report and Recent Issues | [PDC Meeting Video](#)

F-1 process

Chip Beatty overviewed the F-1 process and how it is currently implemented and monitored from start, to finish each year. The process involves the entire customer service team, as well as IT staff time.

James Gutholm noted the problems with the current F-1 application; it is the oldest application the agency uses, and there are some specific issues that filers encounter. The largest issue is that the application has no validation. This will be part of the IT team's work, which will occur after the staff process improvement team does any needed re-engineering of the business processes, including recommended changes to the F-1 and related forms.

Chair Levinson noted that because the PDC forms are embedded in the WACs, that means even minor improvements cannot be made without engaging in a rule-making each time, which limits the flexibility needed for continuous improvement. She suggested a rule-making now, as the staff continues to work on improving forms, that would take the forms themselves out of the WACs and instead house them on the PDC website.

Next Steps/Follow-up: Deputy Director Sandahl will work with the AAG to draft a proposed rule to accomplish this, and bring draft language back to the Commission to initiate the rule-making process. Staff will continue to work on streamlining the F-1 process and then on the technology enhancements.

Recusal language on F-1 form

Director Lopez discussed options regarding placing recusal language on the F-1 form.

The Commission agreed that the language should be added to the modification application rather than the F-1 form itself.

Glen Morgan addressed the Commission in support of adding recusal language.

F-1 reporting: membership on public boards/commissions when part of official duties

Jeff Myers, an attorney who represents many local cities and other governmental bodies, including the LOTT Clean Water Alliance, the Olympic Region Clean Air Agency, and Thurston 911 Communications, addressed the Commission regarding the financial reporting requirements for local elected officials who serve on these types of interlocal boards or other boards and commissions, such as sewer, water or parks districts, as part of their official duties. He explained that there is confusion and uncertainty as to what they are required to report on their F-1s that in his view stems from ambiguity in RCW 42.17A.710. He submitted a detailed letter describing the problem and asked that the Commission clarify the reporting requirements.

Director Lopez noted that this would need to be addressed in part 5 of the F-1. Staff will review and bring proposed language to the Commission at the May meeting.

Next Steps/Follow-up: Staff will add language to the application for reporting modification to ask those requesting a modification to assert that they will recuse themselves if a matter comes before them that would be a personal or professional conflict of interest.

Next Steps/Follow-up: On the issue regarding elected official reporting requirements for service on public boards/commissions in their capacity as public officials, the AAG and PDC Staff will prepare language for Commission consideration at the May meeting. In addition, staff will review the instructions on the PDC website to ensure clear guidance is provided there.

Rules and Requests for Commission Guidance | [PDC Meeting Video](#)

Petition for Rulemaking

Director Lopez discussed the petition for rulemaking from Mr. Conner Edwards.

Mr. Edwards petition suggested that the Commission consider rulemaking to state that the personal financial statement reminders are a courtesy and that it is the responsibility of the officials to file the form as required regardless of whether they receive a reminder.

Commissioners stated that how and when courtesy reminders are sent will be part of the F-1 process improvement work and no rule making is needed now.

Motion 17-020 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission deny the petition for rulemaking.

The motion passed.

Next Steps/Follow-up: Staff will send a communication back to the petitioner with the Commission's decision.

Request review of WAC 390-17-400

Director Lopez discussed a request from Representative Dolan to review WAC 390-17-400 regarding the limitation of legislative staff engaging in fundraising during the legislative session for non-legislative races in which they may be a candidate.

The AAG reviewed the legislative history, and it seems the initiative was narrower than the resulting statutory language. The Commission reviewed and discussed the statutory language and agreed that the statute precludes legislative staff and staff for statewide elected officials from fundraising during the session. The Commission noted that if this was not the intent of legislators in adopting the statute, it would need to be addressed legislatively.

Next Steps/Follow-up: Director Lopez will follow-up with a letter to Representative Dolan regarding the meeting discussion. Deputy Director Sandahl will contact Representative Dolan via phone as well.

Surplus Funds

Director Lopez discussed the need to perhaps provide additional guidance on allowable uses of surplus campaign funds. Ms. Lopez provided examples of uses of surplus funds and discussed the variety of allowable uses. She suggested that this may be an area for some FAQ or informal communication on the PDC website, or possible consideration for the Commission to consider rulemaking.

Next Steps/Follow-up: Kim Bradford will add this topic to the project she is leading to update the guidance provided to the regulated community on the PDC website. She'll consult with the AAG on drafting some examples of acceptable and not acceptable uses of funds and provide an update at the May Commission meeting.

Report to Commission | [PDC Meeting Video](#)

Phil Stutzman presented staff analysis of the complaint filed by the Northwest Accountability Project against the Freedom Foundation, PDC Case 14633 for the alleged violation of RCW 42.17A.205, .235, and 240 by failing to register and report as a political committee due to being a "receiver of contributions" to oppose Initiative 1, a ballot measure on the 2016 City of Olympia ballot pertaining to the adoption of an income tax to fund a college grant program in the City of Olympia. If not a political committee, then the Freedom Foundation allegedly violated RCW 42.17A.255 by failing to report independent expenditures opposing Initiative 1 on PDC Form C-6.

Staff concluded that no money was segregated from the fundraising letter, and it was a general fundraising letter what was not soliciting contributions and therefore the Foundation was not acting as a political committee.

Regarding the allegation that related to the activities that Freedom Foundation engaged in and whether they should be reported as independent expenditures in opposition to Initiative 1; staff concluded the value of some activities (editorial writing, amicus brief) should be reported as independent expenditures opposing Initiative 1.

Staff recommended the Commission find no violation of political committee registration, but find violations of failing to report independent expenditures and that the Commission make those recommendations to the Attorney General.

Mark Lamb, attorney for the Freedom Foundation, addressed the Commission.

Motion 17-021 Moved by Commissioner Johnson, seconded by Commissioner Bridges that:
The Commission refer this matter back to the Attorney General with the recommendation to initiate action on the complaint.

Commissioner Levinson, Commissioner, Bridges, Commissioner Johnson voted Yes.

Commissioner Asay voted No.

The motion passed 4 to 1.

Executive Session

The Commission went into executive session at 11:50 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, and review of performance of public employees.

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

Executive Director Search | [PDC Meeting Video](#)

Director Lopez updated the Commission on the status of the Executive Director recruitment. The initial applicants selected for interviews have been through one round of interviews. The next round of interviews is being scheduled.

Motion 17-019 Moved by Commissioner Bridges, seconded by Commissioner Ammons that:
The Commission appoint Barbara Sandahl as the acting Executive Director, effective May 1, 2017, with all the responsibilities and powers which have been delegated to the Executive Director until such time as the Commission appoints a permanent Executive Director, and that the Commission ratify the Chair's prior approval to have Ms. Sandahl's salary adjusted to the Executive Director's salary level during that period.

The motion passed.

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

Kurt Young presented Katherine Davis', PDC Case 10043, request for reconsideration of the penalty issued for not timely filing her F1 report.

Mr. Young noted that as an incumbent Ms. Davis was required to file an F1 report timely and after receiving the notice she filed her F1 immediately.

Staff recommended suspending the \$150 penalty assessed.

Motion 17-020 Moved by Commissioner Asay, seconded by Commissioner Johnson that:
The Commission reconsider the penalty imposed in PDC Case 10043, Katherine Davis.

The motion passed.

Motion 17-021 Moved by Commissioner Asay, seconded by Commissioner Johnson that:
The Commission suspend the \$150 penalty amount for four years if no violations occur during that time.

The motion passed.

PDC Workplan | [PDC Meeting Video](#)

Director Lopez and Deputy Director Sandahl provided an update and discussed status of projects and items on the PDC workplan. Ms. Sandahl and Ms. Lopez shared a chart showing a 12-month projection/timeline and where the items fit.

Staff Reports | Enforcement | [PDC Meeting Video](#)

Director Lopez updated the Commission on enforcement and compliance statistics, complaints resolved to date, and the status of mandatory filer enforcement.

Commissioner Ammons asked about the possibility of a potential government shut down based on state budget discussions. Director Lopez explained that staff will respond to Office of Financial Management's request and notify them that very limited essential services would be available if this occurs.

Deputy Director Sandahl noted that agency budgets and legislative packages are due in September 2017.

Staff Reports | IT Staff Report | [PDC Meeting Video](#)

James Gutholm reported the L-5 app has been repaired and seems to be working well. There has been a great kick-off to phase 2 of the query project and he will have more to share next month. He anticipates that this will dramatically change the information available to the general public.

Meeting adjourned at 2:15 pm.

Minutes approved May 25, 2017