

State of Washington
PUBLIC DISCLOSURE COMMISSION

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MINUTES – Regular Meeting

9:30 a.m. | February 27, 2018

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

Commission Members Present

Anne Levinson, Chair; Jack Johnson, Vice-Chair; David Ammons, Member; Bill Downing, Member.

Staff Present

Peter Lavalley, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Kurt Young, Compliance Officer; Phil Stutzman, Sr. Compliance Officer; James Gutholm, Chief Technology Officer; Bruce Wendler, IT Specialist; Ladelles Fuquay, Customer Service Representative; Toni Lince, Customer Service Representative; Scott Douglas, Assistant Attorney General; and Chad Standifer, Assistant Attorney General.

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

Public Comments | [PDC Meeting Video](#)

No public comment was made.

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of the January 25, 2018 regular meeting minutes.

Motion 18-07 Moved by Commissioner Johnson, seconded by Commissioner Downing that:

The Commission approve the January 25, 2018 meeting minutes.

The motion passed.

Modification Requests for F-1 Reports | [PDC Meeting Video](#)

Jennifer Hansen reviewed the PDC modification request process and presented modification requests.

A modification request allows an individual to request not to disclose certain information that is otherwise required on their Personal Financial Affairs Statement (F-1).

Requests need to meet requirements to be eligible to be heard by the Commission. The Commission has the authority to weigh the hardship reported by the filer against what the public would be lacking if that information were omitted from the report.

The modification process is broken into two components: new requests and renewals. Under current law, a new request will come before the full Commission for consideration, while a renewal of an existing modification can be heard by a single Commissioner at a brief hearing.

[HB 1833](#) concerning financial reporting by elected and appointed officials, candidates, and appointees would change the modification request process if passed and signed into law. It would allow the agency to review all reporting modifications at brief hearings. In addition, a modification could be in effect for the duration of a filer's term of office.

This will be beneficial for the filer and the PDC staff, given the time currently needed to process requests.

Commissioner Downing noted the language in the modification application regarding personal residence not being reported for safety reasons. The filer is required to have some tangible evidence of a specific threat. He suggested that the application language may need revision to make that clearer.

Ms. Hansen noted that the application form can be modified by the PDC staff. She said she understands that judges are often advised by court staff to request a modification because of potential threats.

Executive Director Lavalley noted that the topic will be further addressed later in the meeting when HB 1833 and other pending legislation will be discussed.

Modification Request

- *Kathryn Loring* – Superior Court Judge, San Juan County | [WAC 390-28-100\(1\)\(e\)\(ii\)](#) & [WAC 390-28-100\(1\)\(d\)](#)

Judge Loring requested a reporting modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, for her residential address on her Personal Financial Affairs Statement covering the previous 12 months. She believes seeking an exemption from disclosing her personal residence is necessary for her safety.

Judge Loring also requested a reporting modification that would exempt her from listing the business customers that made payments of \$12,000 or more to the law firm of Goddu Langlie Loring Sandstrom PLLC during the previous 12 months.

Staff recommended approval.

Commissioner Downing stated that the request falls short of any specific evidence that justifies the request for exempting her address. He suggested sending the request back and asking if there is any more specific information regarding that portion of the request.

Commissioner Johnson stated that the other modification request before the Commission illustrates the problem of waiting until there is a very serious threat. Then staff would have to expunge records that have been previously filed, which could only be done if permissible under the Public Records Act. Waiting until a judge has been in the position for a couple of years really is almost too late to do any good.

Motion 18-08 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission grant the partial reporting modification as requested, finding that 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 3 to 1.

Commissioners Levinson, Johnson, and Ammons voted Yes.

Commissioner Downing voted No.

Follow up/Next Steps: Commissioner Levinson suggested letting filers who make this modification request know that it would be of assistance in assessing a request to have a specific articulation of the rule factors regarding the indication or concern they have of a potential threat.

Jennifer Hansen will add this to the discussion she has with filers requesting modifications.

- *Grace H. Whitener* – Superior Court Judge, Pierce County | [WAC 390-28-100\(1\)\(d\)](#)

Judge Whitener requested a reporting modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, for her residential address on her Personal Financial Affairs Statement covering calendar year 2017.

Judge Whitener also requested a retroactive modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, for her residential address previously reported on her F-1 filed as a candidate in May 2012 covering the previous 12 months, her F-1 filed as an appointee in 2015 covering the previous 12 months, and her F-1 reports filed in 2016, 2017 and 2018 as an annual filer.

Judge Whitener stated that she received a threat from a litigant, requiring her to obtain a restraining order. In addition, she has been placed on a supremacist website, and she stated that not disclosing her personal address will help ensure her safety and that of her family.

Staff recommended approval of the request for modification.

Motion 18-09 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:
The Commission grant the partial reporting modification as requested, finding that 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.

Follow up/Next Steps: Commissioner Levinson asked staff to look through forms and make language consistent. Jennifer Hansen will add this to the list of projects related to the F-1 form.

Enforcement Hearing | [PDC Meeting Video](#)

The following matters being heard involve alleged violations during the 2016 elections for the Pacific County Public Utility District (PUD) #2. The matters were heard concurrently in the interest of judicial economy.

Curtis M. Janhunnen, participated via telephone, representing Patrick Myers.

Patrick Myers did not participate in the Hearing.

Richard Anderson did not participate in the hearing.

Scott Douglas, Assistant Attorney General, was present representing the PDC Commission.

Chad Standifer, Assistant Attorney General was present representing PDC Staff.

Kurt Young, Compliance Officer, participated in hearing.

The parties presented the Commission with a proposed Stipulation as to Facts, Violations, and Penalty for consideration in each matter.

Mr. Standifer presented the proposed Stipulations.

- *Richard Anderson* ([PDC Case 7946](#)): PDC Staff alleged that Richard Anderson, a candidate for Public Utility District (PUD) Commissioner for Pacific County PUD #2, Position No. 3 in 2016, violated: (1) [WAC 390-16-125](#) by exceeding the limitations for the Mini Reporting Option as selected on the

Candidate Registration (C-1 report) and as specified in [WAC 390-16-105](#); and (2) [RCW 42.17A.205](#), [.235](#), and [.240](#) by failing to file the required campaign finance reports as a candidate under the full reporting option.

Mr. Anderson stipulated that he had violated WAC 390-16-125 by exceeding the limitations for the Mini Reporting option as selected on the Candidate Registration (C-1 report) and as specified in WAC 390-16-105.

Mr. Anderson also stipulated to violating RCW 42.17 A.205, 235, and .240 by failing to file the following campaign finance reports as a candidate under the Full Reporting Option: an amended C-1 report; a Monetary Contribution report (C-3 report); and a Summary Contribution and Expenditure report (C-4 report) with relevant schedules and attachments, disclosing contribution and expenditure activities undertaken to date.

The Respondent agrees to pay a total civil penalty of \$1,500 with \$500 suspended with the following conditions:

That the Respondent is in compliance with all reporting requirements and is not found to have committed any further violations of RCW 42.17A or WAC 390 within four years of the date of the Final Order; the non-suspended portion of the penalty (\$1,000) is paid within 30 days of the date of the Final Order.

Motion 18-010 Moved by Commissioner Johnson, seconded by Commissioner Downing that:
The Commission accept the Stipulation as to Facts, Violations, and Penalty.

The motion passed.

- *Patrick Myers* ([PDC Case 8116](#)): PDC staff alleged that in 2016, Patrick Myers, Publisher of the *Willapa Harbor Herald*, ran “free” newspaper advertisements in support of Richard Anderson, a candidate seeking election as Pacific County PUD Commissioner, District #2, Position No. 3.

PDC Staff alleged Mr. Myers violated [RCW 42.17A.145](#) and [.255\(4\)](#) by filing false campaign finance reports disclosing the newspaper advertisements as independent expenditures and electioneering communications made in support of Richard Anderson, when the advertisements were in fact in-kind contributions made in support of Mr. Anderson’s campaign.

Mr. Myers stipulated that he violated RCW 42.17A.145 and .255(4) by filing false campaign finance reports disclosing the newspaper advertisements as independent expenditures and electioneering communications made in support of Richard Anderson, when the advertisements were in fact in-kind contributions made in support of Mr. Anderson’s Campaign.

The Respondent agrees to pay a total civil penalty of \$1,500 with \$500 suspended with the following conditions:

That the Respondent is in compliance with all reporting requirements and is not found to have committed any further violations of RCW 42.17A or WAC 390 within four years of the date of the Final Order; the non-suspended portion of the penalty (\$1,000) is paid within 30-days of the dates of the Final Order.

Motion 18-011 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:
The Commission accept the Stipulation as to Facts, Violations, and Penalty.

The motion passed.

Communications and Outreach Report | [PDC Meeting Video](#)

Kim Bradford, Communications and Outreach Director reported on:

Customer Service/Help Desk

Staff are headed into one of the busiest time of the year for customer service and filer assistance. It is expected that February will continue to be busy.

Follow up/Next Steps: Commissioner Levinson asked Staff to add, as a bulleted item to the “Staffing at a Glance” document, the fact that Customer Service and Filer Assistance handled more than 7,400 requests for assistance in calendar year 2017.

Training

Six months of data has been collected from the surveys that have been sent after training classes were completed.

Overall the quality of training was rated high. Attendees travel from destinations farther than we expected to attend, many noting how valuable the in-person training experience is.

One item noted was that 30% of attendees had not reviewed anything on the PDC website prior to attending the training.

Director Bradford noted that moving forward, after any training changes, surveys will continue and questions will change as needed.

Jennifer Hansen has posted a schedule of the regular training available for 2018. Interested parties can register now. Staff hopes to handle additional training via Skype or video posted on the PDC website.

Process Improvement Spotlight—Annual Officials List

Bruce Wendler, ITS 5 Specialist, discussed the five data-driven processes the agency manages each year. The Annual Officials List is one of the five, and this year the staff used an updated process for completing it.

There are approximately 1,200 jurisdictions that the PDC requests information from each year, so that the agency can develop a list of officeholders who have a F-1 filing obligation.

In past years this process was done manually. This has now been changed into an automated process, using data from the Secretary of State’s elections division. All information is now processed electronically, and each jurisdiction is asked to verify the information. This process is now complete for this year, and it will enable the staff to send over 5,000 email reminders to filers this week reminding them of their filing obligations. The automation of this process has saved valuable time for staff.

Information Technology Report | [PDC Meeting Video](#)

James Gutholm, Chief Technology Officer, discussed the current features and future enhancements that will provide online assistance and checks for common errors in the PDC’s electronic filing systems.

The agency plans to develop a system for sending emails and reminders to filers that are more targeted and provide more information as to what and why they need to file. This gives the filer an opportunity to verify that the information has been received or if they still need to file.

Mr. Gutholm noted IT staff is now back on track with the F-1 application updates. Many filers have filed successfully and there have been no issues reported.

The L-5 project continues to go forward. A small group of stakeholders from some larger agencies is assisting to help staff understand how this application can be improved for the end user. The project is on track.

Projects related to the campaign finance system

- Begin scoping the major replacement of the campaign finance system which will ultimately give the PDC a new, much easier to use, reporting system.
- Incremental improvements to the ORCA filing software.
- Continue to implement wireless availability at the PDC office. When public visits the offices they can also access the public portion of the agency wireless network.
- Staff continues to work with State IT Central Services to transfer some infrastructure projects.
- Future plans to replace the F-1 system. IT is exploring replacement of this software with a system that is modern and easy to use and maintain.

Commissioner Levinson discussed the handout “Technology to Empower Disclosure,” a one-page description of IT items that are in process, have been completed, and what future funding would bring.

Mr. Gutholm noted that pending legislation will significantly impact how the PDC will move forward with projects.

Demonstration

Mr. Gutholm demonstrated electronic applications available to PDC filers.

Compliance and Enforcement Update | [PDC Meeting Video](#)

Kurt Young, Senior Compliance Officer, presented a monthly compliance status update.

- Total number of open cases as of February 22, 2018: **466**.
- Total number of cases closed covering the period January 19 through February 22, 2018: **23** cases.
- New complaints received and cases opened January 19 through February 20, 2018: **63** new complaints filed with the PDC during this timeframe.
- Cases closed – no technical violation, minor filing error may have occurred (WAC 390-37-060(1)(a)): **13**.
- Case Closed – Action Commenced by Citizen under RCW 42.17A.765: **1**.
- Cases closed – minor technical violation and/or minor filing error – Reminder letter issued (WAC 390-37-060(1)(a)): **7**.
- Brief Enforcement Hearings were held on February 16, 2018, for the following number of Respondents: **4**.

Executive Session

The Commission went in to Executive Session at 11:30 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. Any action regarding pending litigation, or other matters properly discussed during executive session, would be taken following the Executive Session.

The Commission returned to the open public meeting at 12:30 p.m.

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

Micaiah Ragins, Compliance Coordinator, presented *Renier Elenbaas's* request for reconsideration of the original Order in [PDC Case 22791](#).

Renier Elenbaas did not participate at the hearing.

On August 23, 2017, Renier Elenbaas, a candidate for School Director of the Meridian School District 505, was found in violation of [RCW 42.17A.205](#) by failing to timely file the Candidate Registration (C-1 report) and [RCW 42.17A.700](#) by failing to timely file a Personal Financial Affairs Statement (F-1 report), due to be filed within two weeks of declaring candidacy or no later than June 2, 2017, disclosing financial information for the preceding twelve months. A \$500 penalty was assessed. Mr. Elenbaas requested a reconsideration by the Commission.

Staff recommended that the Commission suspend \$200 of the \$500 penalty assessed against Mr. Elenbaas on the basis that the initial telephone number used to contact him was incorrect and that he demonstrated continued effort to file the missing C-1 and F-1 reports once telephone and email communication had been effectively established with PDC staff. It is further recommended that the Commission require:

- Renier Elenbaas pays the \$300 non-suspended civil penalty, which is payable within 30 days of the date of the Order.
- Mr. Elenbaas “cease and desist” from failing to file his required PDC reports in accordance with RCW 42.17A.755(4).
- The legal counsel of the Meridian School District 505 be cc'd on the amended Order to remind Mr. Elenbaas and other school directors about the C-1 and F-1 filing requirements.

Motion 18-012 Moved by Commissioner Johnson, seconded by Commissioner Downing that:

The Commission accept the request for reconsideration of PDC Case 22791.

The motion passed.

Motion 18-013 Moved by Commissioner Johnson, seconded by Commissioner Downing that:

The Commission accept the Staff recommendation and amend the initial Order.

Commissioners Levinson, Johnson, Downing voted Yes.

Commissioner Ammons Voted No.

The motion passed.

Enforcement — Mandatory Filer Enforcement | [PDC Meeting Video](#)

Fox Blackhorn-Delph, Compliance Coordinator, presented *Ronnie Little's* request for reconsideration of the original Order in [PDC Case 25923](#):

Ronnie Little did not participate at the hearing.

PDC staff alleged that Ronnie Little, an incumbent Fire Commissioner for King County Fire Protection District #40, violated [RCW 42.17A.700](#) by failing to file a Personal Financial Affairs Statement (F-1 report) due no later than April 17, 2017, disclosing financial activities for calendar year 2016. The case was referred to the full Commission pursuant to [WAC 390-37-143](#) by the Chair qua Presiding Officer at a Brief Adjudicative Proceeding on February 16, 2018.

Staff recommended that the Commission find that Ronnie Little violated RCW 42.17A.700 by failing to file an F-1 report for calendar year 2016, and:

- Assess Ms. Little a \$1,000 civil penalty, which is payable within 30 days of the date of the Order.
- Require Ms. Little to “cease and desist” from failing to file her required PDC reports in accordance with RCW 42.17A.755(4); and to file the missing F-1 report for calendar year 2016 within 30 days of the date of the Order.
- Instruct Staff to contact the legal counsel of the King County Fire Protection District #40 to remind Ronnie Little and other fire commissioners about the F-1 filing requirement.

Motion 18-014 Moved by Commissioner Ammons, seconded by Commissioner Downing that:
The Commission accept the Staff recommendation and amend the initial Order.
The motion passed.

Executive Director and Deputy Director Update | [PDC Meeting Video](#)

Chad Johnson, Budget Analyst (DES), participated in the PDC budget discussion.

Peter Lavalley, Executive Director, provided a chart showing the Attorney General billings/expenses charged to the PDC since July of 2017.

The information is broken out by AAG’s billings and the Attorney General’s Campaign Finance Unit billings.

The overspend is driven mostly by matters that are out of the PDC’s control, items that were referred to the Attorney General’s office or the Attorney General had exercised their jurisdiction over but were billed to the PDC.

Chad Johnson, Budget Analyst (DES), provided an update on the supplemental budget and the remaining legislative process. The House and the Senate will attempt to come out with an agreeable budget before legislative session ends. This summer, the PDC will begin working on the 2019-2021 budgets.

Executive Director Lavalley updated the Commission on the PDC annual report. The Office of Financial Management (OFM) responded with some feedback on the draft report sent to them for review.

Chair Levinson responded to the changes that were requested on the cover letter and Kim Bradford responded to the technical changes within the report.

Mr. Lavalley noted that staff will come back to the March Commission meeting with a Strategic Plan update and milestone report, as well as a discussion around an “ideal state.”

BG Sandahl, Deputy Director, updated the Commission on PDC legislative items and priorities.

PDC Staffing at a Glance

This document was created in response to Commissioner Levinson’s request for staff to review the legislation that is still active this legislative session and identify PDC needs accordingly.

Ms. Sandahl reviewed the pending bills. There are possibly four bills that PDC will have to implement:

- ESHB 2938 Concerning campaign finance law enforcement and reporting
- ESSB 6161 Establishing a training course for campaign treasurers

- SSB 5991 Increasing transparency of contributions by creating the Washington state DISCLOSE Act of 2018
- ESSB 5397 Requiring disclosure by entities that compensate for petition signatures

Ms. Sandahl reviewed the current staffing level as compared to the required staff level needed for each bill.

PDC's priorities for funding:

- Quickly assess and triage all cases within 90-days
- Focus enforcement staff on investigations of major violations
- Resolve minor violations or errors through streamlined administrative remedies
- Provide more customer support for filers who need assistance and training
- Improve electronic filer application and update other our-of-date I.T. systems

ESHB 2938 Concerning campaign finance law enforcement and reporting

Commissioner Levinson provided a recap and overview of the status of the legislation.

Adjourned at 2:07 p.m.

Approved March 22, 2018