

State of Washington
PUBLIC DISCLOSURE COMMISSION
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MINUTES – Regular Meeting

9:30 a.m. | July 25, 2019
Evergreen Plaza Building, Room 206
711 Capitol Way
Olympia, Washington

Commission Members Present

Anne Levinson, Chair; David Ammons, Vice-Chair; Russell Lehman, member; Fred Jarrett, member.

Absent

Bill Downing, member.

Staff Present

Peter Lavallee, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Sean Flynn, General Counsel; James Gutholm, Chief Information Officer; Jana Greer, Administrative Officer; Kurt Young, Compliance Officer; Jennifer Hansen, Compliance Officer; Chad Johnson, Budget Analyst, Department of Enterprise Services; John Meader, Assistant Attorney General; and Chad Standifer, Assistant Attorney General.

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

Public Comments | [PDC Meeting Video](#)

No public comment was given.

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of meeting minutes for the June 27, 2019, regular meeting and the July 17, 2019, special meeting.

MOTION 19-048 Moved by Commissioner Ammons, seconded by Commissioner Lehman, that:

The Commission approve the meeting minutes for the June 27, 2019, regular meeting and the July 17, 2019, special meeting, as presented.

The motion passed 4-0.

Budget Update | [PDC Meeting Video](#)

The Commission and staff discussed the PDC budget, Transparency Account status, and IT projects and proposed project management position.

Chad Johnson, Budget Analyst, provided an overview of the PDC budget and the Transparency Account fund balance of \$849,724.57. Currently the agency is anticipated to underspend \$300,000 for FY17-19. Mr. Johnson met with the executive team in late July to discuss the 19-21 allotment and the IT project positions.

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

The Commission conducted a hearing as part of the regular meeting to hear requests for reporting modifications. Jennifer Hansen, Compliance Officer, presented requests.

The following individuals requested a reporting modification:

Susan Wilkins—School Director Candidate, Lake Washington School District [WAC 390-28-100\(1\)\(e\)](#). Susan Wilkins participated in-person.

Susan Wilkins requested a reporting modification that would exempt her from disclosing all her spouse's reportable financial information on her Personal Financial Affairs Statement covering the previous twelve months.

MOTION 19-049 Moved by Commissioner Ammons, seconded by Commissioner Lehman, that:

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

The motion passed 4-0.

Maria Flores—School Director Candidate, Olympia School District 111 [WAC 390-28-100\(d\)](#).

Maria Flores waived her right to participate at the hearing.

Maria Flores 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 filed as a candidate covering the previous twelve months.

MOTION 19-050 Moved by Commissioner Ammons, seconded by Commissioner Jarrett, that:

The Commission grant the partial reporting modification as requested, finding that the 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, and that the exemption be applicable through 2023

The motion passed 4-0.

MOTION 19-051 Moved by Commissioner Ammons, seconded by Commissioner Jarrett, that:

The information in the modification request be exempt from the Public Records Act.

The motion passed 4-0.

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

Fox Blackhorn-Delph, Compliance Coordinator, presented a request by Bhaskar Deodhar, a former Water Commissioner for Rocky Point Water District #12, for reconsideration of a civil penalty assessed in PDC case [39009](#) on September 24, 2018. Mr. Deodhar waived his right to participate at the hearing.

On September 24, 2018, Mr. Deodhar, a former Commissioner for Rocky Point Water District #12, was found in violation of [RCW 42.17A.700](#) for failing to timely file a Personal Financial Affairs Statement (F-1 report), due no later than April 16, 2018, certifying financial activity for calendar year 2017. A \$250 penalty was assessed, which Mr. Deodhar requested the Commission reconsider due to mitigating circumstances.

MOTION 19-052 Moved by Commissioner Ammons, seconded by Commissioner Lehman, that:

The Commission grant the request to reconsider the \$250 penalty assessed in PDC case 39009, Bhaskar Deodhar.

The motion passed 4-0.

MOTION 19-053 Moved by Commissioner Ammons, seconded by Commissioner Jarrett, that:

The Commission amend the September 24, 2018 Order to suspend the \$250 penalty assessed on the condition of no other violations of PDC laws or rules for four years from the date of the Final Order.

The motion passed 3-1. Commissioners Levinson, Ammons, and Jarrett voted to approve.

Commissioner Lehman voted no.

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

Kurt Young, Compliance Officer, reported on the status of PDC cases and compliance statistics for the period of June 20, 2019 through July 11, 2019.

- 9 cases closed with no evidence of violations
- 22 cases closed with a reminder
- 1 case closed with a formal written warning
- 4 cases closed with a statement of understanding
- 2 case closed as a request for technical correction
- 1 case closed with Commission finding violations

Deputy Director Sandahl reported that there are 160 cases open, including 87 pre-ESHB 2938 and 73 post-ESHB 2938 cases. Commissioners asked, consistent with the strategic plan goal of prioritizing cases whenever possible to get critical information to voters when it matters most,

if staff could readily add information denoting whether an enforcement matter may be relevant to a particular election.

Next Steps/Follow Up: ¹Staff to assess and report back to the Commission incorporating relevant election information for cases on the monthly enforcement report.

F-1 Regulatory Reform Discussion | [PDC Meeting Video](#)

Kim Bradford, Communications and Outreach Director, discussed the history of the F-1 outreach project and current work to develop possible regulatory reform proposals. Director Bradford presented key findings from outreach to date, such as the desire to have different disclosure requirements for different levels of office, additional disclosure on lobbying, business and occupational interest so as to easily identify conflicts of interest, the potential threat to privacy for third parties, and the desire for clarity or updates to the disclosure forms.

Director Bradford recapped that the Commission had asked the staff to work on : changes to the F-1 filing tool (application) to reduce potential confusion for filers and to standardize information; utilizing the Commission's broad rulemaking authority; and consideration of statutory changes. The Commission considered the initial reporting changes recommended by staff, what had been learned from the review of other states' and federal reporting requirements, and discussed streamlining the F-1 application for ease of use and comprehension. Staff will conduct further outreach and come back to the Commission in August with an update as well as further research on the issue of non-disclosure agreements and privileged relationships that may impact reporting requirements. Staff will then present an outline of proposed reforms as well as improvements for ease of understanding in September,, and draft agency-request legislation in October..

*Next Steps/Follow Up:*² Staff to research reporting requirements for NDAs and privileged relationships.

*Next Steps/Follow Up:*³ Additional outreach to examine the usefulness of information currently required to be reported, and other information not required that may be helpful to the public, and what should be removed/included.

Executive Session

The Commission went into Executive Session at 12:23 p.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 meeting returned to open session at 1:40 p.m.

Rulemaking | [PDC Meeting Video](#)

Suggested changes to proposed rules implementing [SHB 1195](#) made by the Commission at the June 26, 2019 meeting were incorporated into the draft rules and presented for review and

consideration. Sean Flynn, General Counsel, reviewed the changes made to draft rules for [SHB 1195](#).

Staff reviewed the status of additional changes that had been discussed by the Commission but not yet incorporated:

- Chapter 24 Section 160 – Provision about the PDC staff publishing and presenting to the Commission in a public hearing the list of state professional staff with an F-1 filing requirement. The Commission had noted that the practice of presenting a list was no longer current and had asked the staff to assess if still had value to retain in rule. Staff agreed that this requirement seemed unnecessary going forward and could be removed.
- Chapter 24 Section 200 – Staff recommended adding an additional provision including the reference to the language in SHB 1195 which creates alternative filing requirements for the law enforcement officials, judges, prosecutors, etc. for their personal residence.
- Chapter 28– Staff proposed a change in language to incorporate the Commission’s request to make sure that any assertion that information is confidential would require a legitimate business interest supporting confidentiality.
- Chapter 37 Section 050 – The Commission had asked the staff to further fine-tune the language about the time allowed for a Respondent to provide information about a complaint, so that cases could be addressed more quickly during periods just before elections.
- Chapter 37 Section 060 – The Commission had asked staff to more clearly separate in the rule technical corrections and how they would be processed, from the complaint, investigation, and hearing process; and to include initiating enforcement, not solely responding to complaints.

Staff will file with the Code Reviser and post the latest version of the proposed rules for public comment. A public hearing will be scheduled for the September 26, 2019, regular Commission meeting.

IT Portfolio Update | [PDC Meeting Video](#)

Chief Information Officer (CIO) James Gutholm reviewed the IT portfolio and discussed the Transparency Fund and how it might best allow the agency to proceed with IT projects.

Executive Director Lavallee discussed a proposed project management position. This position would oversee all projects prior to funding, so that when funding is available, projects could then begin immediately, as well as oversee projects once underway. This role would also ensure that agency needs are understood, and milestones are met and progress toward identified goals is achieved in a timely manner. The Commission asked the staff about the status of the work with OFM, the Governor, and Legislature to pre-approve the IT Portfolio projects, and utilize the Transparency Fund as a non-appropriated account, to be able to more seamlessly move forward with implementation of IT Portfolio projects as funding becomes available in the Transparency Account. Chad Johnson confirmed the use of this approach by other agencies.

The Commission asked him to forward samples from other analogous State non-appropriated accounts and asked the staff to report back on next steps to fulfill this goal.

*Next Steps/Follow Up:*⁴ Staff to follow up with Chad Johnson, Budget Analyst, on other agency examples for non-appropriated accounts and provide that to Commissioners before the next meeting.

Preliminary Discussion of Possible Agency Request Legislation and Budget, Including Transparency Fund | [PDC Meeting Video](#)

General Counsel Sean Flynn presented recommendations for agency-request legislation. General Counsel Flynn discussed technical cleanups, changes, and clarifications that the Commission had noted at the end of last session would be needed as a result of the Governor's partial veto of SHB 1195 at the request of the Commission, as well as additional issues such as clarification of the definition of ballot proposition, in the wake of the State v. Freedom Foundation court decision.

The Commission asked staff to review the list of still pending possible legislative proposals, and to move forward with agency-request legislation that will include F-1 reforms and allowable Commissioner activities, and may also include additional commercial advertiser requirements,, Transparency Fund access, addressing deceptive political advertising, and updating definition of ballot propositions so that statutory language is consistent with court rulings. The Commission also asked staff to refine the proposed language regarding Commissioner activities with regard to campaigns the Commission doesn't regulate.

*Next Steps/Follow Up:*⁵ Staff to report back to the Commission at the next meeting on proposals for addressing these agency-request legislation topics.

Management Team Updates | [PDC Meeting Video](#) **Communication and Outreach Director**

Active recruitment for an Outreach Specialist is underway. Funding for this project position was given to the PDC in the last legislative session. This position would assist in expanding the training program.

During the second quarter of 2019, 202 public records requests were received, 169 were requests for F-1s (personal financial affairs statements.) A majority of records request continues to be for F-1s.

Staff has conducted outreach on the "PAC-to-PAC" bill that expanded sponsor identification, and the port commissioner contribution limits bill; both take effect on July 28, 2019. Staff continues to remind candidates of filing obligations.

IT Activity Report

The campaign registration project was hampered by the inability to do incremental releases that would have allowed for more feedback from end users throughout the process. The F-1 filing system replacement project, now underway, is planned out differently with opportunities for that kind of phased approach. The first release is planned for August 1, 2019.

Process Improvement | [PDC Meeting Video](#)

Discussion of how the “lessons learned” from the campaign registration project will be used in future IT project planning.

Meeting adjourned at 3:38 p.m.

Next Steps/Follow-Up Items

- ¹ Staff to assess and report back to the Commission incorporating relevant election information for cases on the monthly enforcement report.
- ² Staff to research reporting requirements for NDAs and privileged relationships.
- ³ Additional outreach to examine the usefulness of information currently required to be reported, and other information not required that may be helpful to the public, and what should be removed/included.
- ⁴ Staff to follow up with Chad Johnson, Budget Analyst, on other agency examples for non-appropriated accounts and provide that to Commissioners before the next meeting.
- ⁵ Staff to report back to the Commission at the next meeting on proposals for addressing these agency-request legislation topics.

Approved August 20, 2019.