

**State of Washington**  
**PUBLIC DISCLOSURE COMMISSION**  
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**MINUTES – Regular Meeting**

9:30 a.m. | October 24, 2019

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

**Commission Members Present**

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

**Staff Present**

Peter Lavallee, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Sean Flynn, General Counsel; Jana Greer, Administrative Officer; Kurt Young, Compliance Officer; Fox Blackhorn-Delph, Compliance Coordinator; Chad Johnson, Department of Enterprise Services (DES), Senior Financial Consultant; John Meader, Assistant Attorney General representing the Commission; and Chad Standifer, Assistant Attorney General representing PDC staff.

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

Live streaming technical difficulties occurred at the beginning of the meeting; actual streaming started midmorning. Audio of the entire meeting is available upon request and on the [PDC YouTube Channel](#).

**Public Comments | [PDC Meeting Video](#)**

No public comments.

Chair Ammons noted that he directly received inquiries and comments regarding the recent City of Olympia mailer urging a no vote on Initiative 976. Executive Director Lavallee noted that there had been news coverage of the issue and that the PDC had received multiple complaints. He said the facts are under assessment and the City's response would be made public when it is received.

**Meeting Minutes**

Meeting minutes for September 19<sup>th</sup> special meeting and the September 26<sup>th</sup> regular meeting will be reviewed and considered for approval at the December 4, 2019 regular meeting.

**Budget | [PDC Meeting Video](#)**

Chad Johnson, DES Senior Financial Consultant, discussed the status of PDC budget, expenditures, and the balance of the 22W Transparency Fund, which is about \$860,000, including the \$530,000 that has been appropriated to the PDC for strategic priority IT projects.

The past months' Attorney General (ATG) billings showed as underspent, but the recent billing from the ATG was more than was allotted, partially offsetting the underspending. This was anticipated.

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Mr. Johnson, along with additional DES Small Agency Services staff, will be meeting with PDC Executive Director Lavallee and Administrative Officer Greer for a quarterly check-in on financial services.

The executive team has met with Gwen Stamey, Budget Analyst with the Office of Financial Management, to discuss PDC requests for the supplemental state budget. The priorities discussed included the need for a “Project Manager/Contract Management” position to focus on upcoming and ongoing IT and related projects throughout the agency, such as the website usability study and overhaul, and a political advertising archive feasibility study.

#### **Preliminary Discussion of Top Strategic Project Priorities** | [PDC Meeting Video](#)

Executive Director Lavallee discussed the preliminary list of PDC strategic project priorities. The PDC redesign/upgrade of ORCA campaign finance reporting system is currently the top project priority. This project is anticipated to absorb a significant portion of existing staff resources over the next 18 months.

Other priority projects that have existing appropriations are the usability study for and replacement of the PDC website. These are an opportunity to show the Legislature that the PDC is executing as planned when Transparency Fund appropriations are made. These projects will be among the first that the PDC Project Manager will take on and will reflect the wisdom of creating the position.

The plan also prioritizes analysis and feasibility study for a PDC ad archive. Some work has begun, with staff reaching out to the New York City Campaign Finance Board for information about its ad archive for independent expenditures. Commissioner Jarrett suggested the PDC collaborate with other cities and states to create standards for ad archives. This would ensure consistency for all filers reporting information and those using the information.

- **Next Steps/Follow-up:** Executive team members will continue legislative discussions and include the proposed creation of an ad archive, laying the groundwork for any future funding needs or requests.

#### **Quarterly Strategic Plan Update** | [PDC Meeting Video](#)

Executive Director Lavallee presented the quarterly PDC strategic plan update, an overview of the status of the 2017-2020 agency strategic plan. The plan remains relevant to the current work of the PDC and is a good framework as the agency continues to evolve and identify new needs and strategic priorities. Several commissioners said they would like to see more details on the plan, such as the measurables and metrics for tracking actions that embody the strategic plan.

As the plan will be in its final year in 2020, Executive Director Lavallee recommended that the Commission schedule a retreat in early 2020 to look at consider with the executive team how the agency should revise or update the plan for coming years.

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

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Kim Bradford, Communications and Outreach Director, reported that October was a busy month for the PDC's customer service and filer assistance team due to the runup to the election and the numerous reports required of candidates and committees.

On October 1, staff released a new tool in the lobbying system to allow lobbyists to attest to taking legislative Code of Conduct training required by [SSB 5861](#). If lobbyists do not take the training provided by the Legislature, the PDC will revoke their registration after December 31, 2019. Chair Ammons suggested strong external communication about such an important new requirement.

Bradford discussed the mandatory electronic filing passed with [SHB 1195](#) and the continued staged implementation. She also presented the third quarter report for public records requests.

### **Process Improvement** | [PDC Meeting Video](#)

Jana Greer, Administrative Officer, reported on an audit the administrative team is performing of penalties assessed, to ensure accurate information on the PDC website as well as verifying that payment has been made or remains outstanding.

This audit was prompted from the recent process improvement of accepting penalty payments and statements of understanding directly to the PDC office, as well as a collection payment inquiry regarding a 2016 PDC case that had been sent to Alliance One collections. The respondent from the 2016 case paid Alliance One in full, as well as their collection fees, but the PDC had not received payment for this case until months later and received an incorrect amount. Greer contacted Alliance One, requesting a full audit of all existing PDC cases which resulted in numerous cases being identified as paid. This resulted in a check from Alliance One for \$9,659.23 which was deposited into the 22W fund. DES contracting was informed of the matter and is now requesting a full audit from Alliance One of all state agency accounts, with Greer acting as a stakeholder.

As a result from the Alliance One audit, the Public Disclosure Commission's administrative team is now completing a full internal audit to determine any further monies still potentially owed to the PDC from Alliance One, and to ensure accuracy of the PDC website and cases; as well as proper record keeping by the collection agency. The increase of staff resources has allowed for staff to complete work such as the audit and increased timely communication regarding documentation and payments received to the compliance division.

- **Next Steps/Follow-up:** Commissioners Jarrett and Levinson both recommended creating a list of items to present to the Legislature in which the PDC has been able to accomplish due to increased resources and reform of authority.

### **Rulemaking and Interpretations** | [PDC Meeting Video](#)

BG Sandahl, Deputy Director, reported on the current rulemaking by the Commission to implement [SHB 1195](#) and [ESHB 1379](#). The emergency rules expire January 27, 2020. Staff proposed that the Commission approve permanent rulemaking for both SHB 1195 and ESHB 1379 as submitted, making the effective date January 1, 2020.

Chapters 390-19 and 390-20 were inadvertently left out of the initial rulemaking and will be heard at a public hearing on December 5, 2019 in front of the Commission.

Sean Flynn, General Counsel, reviewed the recommended edits and changes for the Commission's consideration. The Commission made a number of amendments.

**MOTION 19-063** Moved by Commissioner Lehman, seconded by Commissioner Downing, that:

**The Commission adopt the amended permanent Rules WAC 390-37; WAC 390-28; WAC 390-24; WAC 390-18; WAC 390-16 and WAC 390-05 as presented.**

The motion passed 5-0.

**Preview of the Reporting Threshold** | [PDC Meeting Video](#)

Under [RCW 42.17A.125](#) the Commission is required to review the amounts for reporting thresholds and determine if there is a need for an inflationary adjustment. Executive Director Lavalley reviewed the current reporting threshold amounts and provided the Commission with an analysis that shows that there is no significant inflationary change at this time. It is anticipated that staff will have a formal recommendation for the Commission at the December 2019 regular meeting.

**Update and Consideration of Interpretation Schedule** | [PDC Meeting Video](#)

Sean Flynn, General Counsel, reported on the Commission's interpretation agenda. In January, staff proposed these topics: the primary purpose test for when a political committee becomes a political committee, online advertising, and the use of surplus funds. These are significant areas and staff plans to present a couple of the draft Interpretations to the Commission for consideration in December 2019.

A new 6-month interpretation schedule will be presented to the Commission at the January 2020 Commission meeting. This schedule is updated twice a year.

Chair Ammons asked if the Commission concurred with a need for a special meeting on January 9, 2020, at 9:30 AM at the PDC offices to have an informational discussion regarding commercial advertisers and how the landscape is changing. The Commission concurred; a special meeting will be scheduled for January 9, 2020.

**Legislative Discussion** | [PDC Meeting Video](#)

Sean Flynn, General Counsel, reviewed draft language of proposed agency request legislation and overview of staff's approach:

- Endorsement disclaimer for political advertising
- Financial Affairs Statement reporting reform
- Clarifying definition of ballot proposition
- Commissioner political activities and advocacy
- Making the Transparency Account non-appropriated

Commissioner Levinson recommended several changes to the staff's proposed draft, and Commissioners concurred. Regarding the reporting requirements of the personal financial affairs statement, changes included (1) raising the monetary reporting thresholds holds for the

financial affairs statement, from \$24,000 to \$25,000, and from \$2,400 to \$2,500; (2) clearly expressing the agency's rulemaking authority to specify the reporting requirements; and (3) eliminating specific reference for reporting real property "in Washington," in favor of regulating the scope of disclosure in rules. Another change included clarifying the definition of ballot proposition, similar to the language used in the election statutes. Regarding the endorsement disclaimers, the commissioners agreed to include disclosure where the person endorsed has not declared as a candidate. Other technical changes were proposed as well. The other Commissioners concurred.

Due to duration of previous agenda items, the legislative discussion was continued in the afternoon portion of the meeting.

**Executive Session | [PDC Meeting Video](#)**

The Commission went into Executive Session at 12:39 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 1:37 p.m.

**Reporting Modification Request | [PDC Meeting Video](#)**

The Commission conducted a hearing as part of the regular meeting to hear a request for a reporting modification. Fox Blackhorn-Delph, Compliance Coordinator, presented a request from Michael Scott, King County Superior Court Judge and former Bainbridge Island City Councilmember. Judge Scott did not participate in-person at the hearing.

Judge Scott requested a renewal of a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during calendar years 2016, 2017, and 2018 to Hillis, Clark, Martin & Peterson, P.S., a law firm.

**MOTION 19-064** Moved by Commissioner Lehman, seconded by Commissioner Downing, 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.**

The motion passed 5-0.

**Enforcement—Consideration and Possible Acceptance of Stipulation | [PDC Meeting Video](#)**

**PDC case [54979](#) Matthew Bishop**

Fox Blackhorn-Delph, Compliance Coordinator, presented staff allegations in PDC case 54979, Matthew Bishop, for Commission consideration. Bishop was not present at the hearing and has not responded to any communications sent by the PDC regarding this matter.

Mx. Blackhorn-Delph summarized the case, noting that PDC staff alleges that Mr. Bishop, a 2019 candidate seeking the office of School Director for Richland School District 400, violated

[RCW 42.17A.700](#), where he is required to file a Personal Financial Affairs Statement (F-1 report), due within two weeks of becoming a candidate or no later than May 14, 2019, disclosing required personal financial information for twelve calendar months prior to becoming a candidate.

Staff recommended that the Commission find that Mr. Bishop is found in violation of [RCW 42.17A.700](#) and assess \$3,000 penalty in this matter.

The Commission went into deliberation at 1:54 p.m. and returned at 2:10 p.m.

**MOTION 19-065** Moved by Commissioner Lehman, seconded by Commissioner Levinson, that:

**The Commission find the Respondent Matthew Bishop in violation of RCW 42.17A.700 and assess a civil penalty of \$4,000, of which \$1,000 of the penalty is suspended on the following conditions:**

- a) **The Respondent is in full compliance with all PDC reporting requirements within 30 days of the date of this Final Order.**
- b) **The non-suspended portion of the penalty (\$3,000), and the civil penalties and collection fees from PDC Cases 22782 and 39041 are paid by the Respondent within 30 days of the date of this Final Order.**
- c) **The Respondent is not found to have committed any further violations of Chapter 42.17A RCW or Title 390 WAC within four years of the date of this Final Order. If there were future violations, the suspended penalty would be due and payable immediately without further action of the Commission, but not assessed based solely upon any remediable violation, minor violation, or error classified by the Commission as appropriate to address by a technical correction.**

The motion passed 5-0.

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

Kurt Young, Compliance Officer, reported the status of PDC cases and statistics for the period of September 17, 2019 through October 21, 2019.

- 17 cases closed with no evidence of violations.
- 17 cases closed with a reminder.
- 11 cases closed with a formal written warning.
- 2 cases closed administratively.
- 1 case dismissed with the concurrence of the Chair.
- 3 cases closed as a request for a technical correction.
- 1 case closed as a remedial violation.
- 4 cases closed with a statement of understanding.
- 4 cases closed as unfounded.
- 5 cases closed with Commission finding violations.

143 active cases during the period with 64 closed and 69 opened this period.

Chair Ammons inquired on response time from the Compliance and Customer Service team during the election season to both incoming calls and electronic traffic seeking information. Compliance team has a five-day turn-around protocol for answering inquiries. Director Bradford noted that in the past month customer service and filer assistance had handled 500 email requests and at least as many phone calls for assistance.

**Legislative Discussion** | [PDC Meeting Video](#)

The review and discussion of draft agency-request legislation continued. Staff reviewed the key subject matters to be covered by agency-request legislation:

- Endorsement disclaimer for political advertising.
- F-1 reform.
- Clarifying definition of ballot proposition.
- Commissioner political activities and advocacy.
- Making the Transparency Account non-appropriated.

The Commissioners agreed to direct staff to incorporate the recommended changes and to integrate all the issues into a single draft bill and prepare for circulation to stakeholders.

- Next Steps/Follow-up: Staff will bring final language, including feedback from stakeholders, for Commission consideration and possible approval to the December 2019 Commission meeting.

Meeting adjourned at 3:17 p.m.

Minutes Approved December 5, 2019.

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**Next Steps/Follow-up**:

- Executive team members will continue legislative discussions and include the proposed creation of an ad archive, laying the groundwork for any future funding needs or requests.
- Staff will include in its discussions with legislators and external communications highlights of accomplishments made possible by added resources and strengthened authority.
- Staff will bring final language, including feedback from stakeholders, for Commission consideration and possible approval to the December 2019 Commission meeting.