



**State of Washington  
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908  
(360) 753-1111 • FAX (360) 753-1112

**Toll Free 1-877-601-2828 • E-mail: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov) • Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)**

MINUTES – Regular Meeting

Evergreen Plaza Building, Room 206  
711 Capitol Way South  
Olympia, Washington

9:30 a.m.  
May 28, 2015

COMMISSION MEMBERS PRESENT

Grant Degginger, Chair  
Katrina Asay, Vice Chair  
Anne Levinson, Member  
John Bridges, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director  
Fred Kiga, Interim Executive Director  
Tony Perkins, Acting Assistant Director  
Jennifer Hansen, Filer Assistance Specialist  
Linda Dalton, Sr. Assistant Attorney General  
Chad Standifer, Assistant Attorney General  
Jana Greer, Executive Assistant

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.

Commission Chair Degginger joined the meeting in progress at 10:20 a.m.

Opening Comments

Commissioner Asay called the meeting to order.

Citizens Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

Commissioner Asay welcomed new Interim Executive Director Fred Kiga.

Andrea McNamara Doyle introduced Mr. Kiga and thanked the Commission for making this process happen.

Fred Kiga thanked the Commission for supporting him as the Interim Executive Director. He is looking forward to the challenges and to assisting with finding a new permanent Executive Director for the PDC.

Minutes

- Regular Meeting Minutes of April 23, 2015

**Motion 15-0041**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission adopt the regular minutes of April 23, 2015.**

The motion passed.

Reporting Modifications (New)

- *Laverne Doris Biel*, Candidate for

Jennifer Hansen presented Laverne Biel's request for a new reporting modification that would exempt her from

City Council, City of Spokane

disclosing the business customers that paid \$12,000 or more during the previous 12 months to Access Telcom, Inc., a provider of technology hardware, software and technical assistance.

Staff recommended approval.

**Motion 15-0042**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission grant the partial reporting modification as requested finding that literal application 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.

- *John P. Eminger*, School Board Director. Chewelah School District #36

Ms. Hansen presented John Eminger's request for a new reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during the previous 12 months to 49° North Mountain Resort which is comprised of Chewelah Basin Ski Corporation, East Basin Investments, Alpine Developments Group and 49° North Winter Sports Foundation, all of whom are part of the ski resort owned by him and share the same customers.

Staff recommended approval.

**Motion 15-0043**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications (New)**

- *Jill Geary*, Candidate for School Board Director

Ms. Hansen presented Jill Geary's request for a reporting modification that would exempt her from disclosing the business and other governmental customers that paid \$12,000 or more during the previous 12 months to Alvarez and Marsal Valuation Services, LLC (A & MVS), a business valuation consulting company.

Staff recommended approval.

**Motion 15-0044**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications (New)**

- *Harold Jambor*, Port Commissioner, Port of Wilapa

Jennifer Hansen presented Harold Jambor's request for a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during the previous 12 months to Ekone Oyster Co., of which he is president a co-owner with his spouse.

Staff recommended approval.

**Motion 15-0045**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications (Renewals With Change)**

- *Judith Hightower*, Municipal Court Judge, City of Seattle

Ms. Hansen presented Judith Hightower's request for renewal of a reporting modification with change that would exempt her from disclosing her personal address information on her F-1 report for calendar year 2014.

Ms. Hansen stated that Judge Hightower handles criminal cases regarding domestic violence and mentally ill offenders. She has been advised to protect her residential information and has taken steps to do so.

Staff recommended approval.

**Motion 15-0046**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

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

- *Steven Hill*, Trustee, Seattle Community College

The motion passed.

Ms. Hansen presented Steven Hill's request for renewal of a reporting modification that would exempt him from reporting the business and other governmental customers that paid \$12,000 or more during 2014 to the following entities for which he serves as director or trustee: Washington Public Affairs Network (TVW), Consumers Union, Seattle Symphony, the Seattle Foundation, Habitat for Humanity and Pinchot University.

Staff recommended approval.

**Motion 15-0047**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications  
(Renewal with No Change)**

- *John Hein*, School Board Director, Cle Elum-Roslyn School Dist. 404
- *Lisa M. Janiki*, Commissioner, Skagit County
- *Kevin Ranker*, State Senator, 40<sup>th</sup> Legislative District

Jennifer Hansen presented requests to renew reporting modifications with no changes for John Hein, Lisa Janiki and Kevin Ranker.

Staff recommended approval.

**Motion 15-0048**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications  
(Renewal with No Change)**

- *Brett Buckley* - District Court Judge, Thurston County

Jennifer Hansen presented requests to renew reporting modifications with no changes, for Brett Buckley, Karen Donohue, Glenn Phillips, and Mark Thompson.

Staff recommended approval.

- *Karen Donohue* - Municipal Court Judge, City of Seattle
- *Glenn Phillips* - Municipal Court Judge, City of Kent
- *Mark Thompson* - Fire District Commissioner, Thurston County Fire District 5

**Motion 15-0049**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications  
(Renewal with No Change)**

- *Drew Hansen* - State Representative, 23rd Legislative District
- *David B. Johnston* - School Board Director, Snohomish School District
- *Steven T. O'Ban* - State Senator, 28th Legislative District
- *Kathleen M. O'Sullivan* - Member, Commission on Judicial Conduct
- *Jamie Pedersen* - State Senator, 43rd Legislative District
- *Benson D. Wong* - City Council Member, City of Mercer Island

Jennifer Hansen presented requests to renew reporting modifications with no changes for Drew Hansen, David B. Johnston, Steven T. O'Ban, Kathleen M. O'Sullivan, Jamie Pedersen, and Benson D. Wong.

Staff recommended approval.

**Motion 15-0050**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications  
(Renewal with No Change)**

- *Deborah Ehrlichman* - School Board Director, Shoreline School District
- *Laura Inveen* - Superior Court Judge, King County
- *Christine Schaller* - Superior Court Judge, Thurston County
- *Wm. Alan White* - Commissioner, Grant County Hospital District 1

**Motion 15-0051**

Jennifer Hansen presented requests to renew reporting modifications with no changes for Deborah Ehrlichman, Laura Inveen, Christine Schaller, and Wm. Alan White. Staff recommended approval.

Moved by Commissioner Ranade, seconded by Commissioner Asay that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications  
(Renewal with No Change)**

- *John R. Ruhl* - Superior Court Judge, King County

**Motion 15-0052**

Jennifer Hansen presented a request to renew reporting modification with no changes, for John Ruhl.

Staff recommended approval.

Moved by Commissioner Ranade, seconded by Commissioner Asay that:

**The Commission grant the partial reporting modification as requested, finding that literal application 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.

**Reporting Modifications  
(Renewal with No Change)**

- *Linda C.J. Lee* - Appeals Court Judge, Division 2
- *Elizabeth Pike Martin* - Superior Court Judge, Pierce County

**Motion 15-0053**

Jennifer Hansen presented requests to renew reporting modifications with no changes, for Linda Lee, and Elizabeth Pike Martin.

Staff recommended approval.

Moved by Commissioner Ranade, seconded by Commissioner Asay that:

**The Commission grant the partial reporting**

**modification as requested, finding that literal application 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.

### Executive Director Recruitment

Andrea McNamara Doyle stated that the job announcement for the Executive Director recruitment has been published and is available for distribution. June 22, 2015 is the first deadline for initial screening of applicants.

Ms. Doyle introduced Dennis Karras, Karras Consulting, and asked the Commission to provide input to Mr. Karras about the evaluation criteria the Commission would like him to use when screening for applicants.

Mr. Karras and the Commission discussed the skills, abilities, and qualities the candidates will need. Mr. Karras noted that information gathered from the recent survey to stakeholders will be used in determining the needs as well.

Commissioner Levinson stated that prior discussion by the Commission had led to the current job description and related work product. She noted that the Commission is concerned about the scale, scope, and importance of the work of the Commission juxtaposed against the staff capacity and budget cuts over the years, as well as the legal and political context for the subject matter, which is complex and constantly evolving. She indicated the importance of being able to meet public expectations and strategically align the agency's mission against these challenges.

Commissioner Asay stated that there is a balance of skills that are needed, including the tenacity to pursue the resources the agency needs. She stated that one of the biggest issues for the PDC is Information Technology; we have a great IT department and need to have a new executive director that can continue to lead the work of that division. The new executive director will need to attract the desired personnel as openings come up.

Commissioner Levinson stated that a candidate for executive director should have a strong commitment to the work of the agency. She encouraged Mr. Karras to look across the national landscape to find expertise and opportunities to support and improve the work of the agency.

Mr. Karras continued the discussion with the Commission

and discussed concerns for technology needs, as well as other items the incoming executive director will be faced with.

Commissioner Levinson highlighted the potential challenges of navigating legal developments related to the commission's area of regulation. She noted the importance of being able to address legislative priorities, and explain and articulate to the public, the media, and the stakeholder community the work and the needs of the commission and to meet their expectations.

Commissioner Asay noted that an important skill is being able to manage false expectations held by elected officials and the public, in light of constraints on agency resources.

Commissioner Levinson stated that the agency's leadership should be able to advocate for any available changes in laws or rules that could alleviate resource constraints.

Mr. Karras provided the status of items in the work plan and timeline for recruitment. He stated that the recruitment is underway and that the candidate focus will be regional but the announcement, as with all recruitments, will go international online.

He provided an overview of the Karras approach, outreach, and recruitment process.

Once the candidate lists are established Karras will work with DES to proceed with the recruitment from that point forward.

Mr. Karras will continue to be in communication throughout the recruitment process.

Andrea McNamara Doyle discussed the options to adjust the salary for the executive director.

Commissioner Degginger stated that in order to have a strong pool of applicants and a successful recruitment, it is desirable to have the salary adjusted upward sufficiently to realistically attract the person to perform this level of work. He stated that it is necessary to explore the Commission's options are regarding this matter.

Fred Kiga stated that he will raise the issue and see what alternatives are available. His observation of this position is that the salary does not take into consideration the vast policy related responsibilities the executive director will have.



Commissioner Levinson asked Karras Consulting to report any feedback from candidates in regards to the willingness to apply or go further in the process related to the salary issue.

The Commission and staff continued discussion of preferred and required experience and qualifications for candidates for the executive director position, including length of management experience, and experience in policy development.

### Rulemaking

Public hearing and possible adoption of amendments to:

- WAC 390-18-050 Commercial advertisers - public inspection of records
- WAC 390-37-020 Enforcement procedures – Initiation of a complaint
- WAC 390-37-040 Enforcement procedures – Procedures for filing complaints with the commission

Lori Anderson presented proposed rule amendments for public comment, consideration and possible adoption by the Commission.

Steve Lindstrom participated in the public comment portion of the meeting and addressed the proposed amendments. He stated that it is good to have the intermediate step in addressing alleged violations, rather than all or nothing. He discussed the propriety of disclosing the fact of a complaint against a respondent, and the public records that are open and available for request. He stated his hope that the complaint process would not be abused by the public.

Staff requested the Commission approve the proposed amendments to WACs 390-18-050, 390-37-020, and 390-37-040.

### **Motion 15-0054**

Moved by Commissioner Levinson, seconded by Commissioner Asay that:

**The Commission adopt amendments to WAC 390-18-050, 390-37-020, and 390-37-040.**

The motion passed.

### Rulemaking (Continued)

Discussion and possible approval of draft proposed language for new and amended rules to provide alternatives to adjudicative proceedings for enforcing Chapter 42.17A RCW and Title 390 WAC.

#### Draft Amended Rules

- WAC 390-37-010 Enforcement procedures—General.
- WAC 390-37-050 Enforcement

Tony Perkins presented for discussion and possible approval draft proposed language for new and amended rules to provide alternatives to adjudicative proceedings for enforcing Chapter 42.17A RCW and Title 390 WAC.

Mr. Perkins noted that staff has filed a pre-proposal notice for the entirety of WAC 390-37, the Commission's enforcement rules, and if the Commission has any revisions for other sections of the enforcement rules, Staff is in a position to bring draft language back to the Commission for consideration at next month's meeting.

procedures—Respondent's notice of complaint.

- WAC 390-37-060 Enforcement procedures—Alternative Responses to Non-compliance—Investigation of complaints—Initiation of hearing (adjudicative proceeding).
- WAC 390-37-070 Enforcement procedures—Complaints dismissed by executive director.
- WAC 390-37-103 Commission options following receipt of a staff report on alleged violations.
- WAC 390-37-140 Brief enforcement hearings (adjudicative proceedings)—Authority.
- WAC 390-37-142 Brief enforcement hearing (adjudicative proceeding)—Procedure.

#### Draft New Rules

- WAC 390-37-055 Alternatives to adjudicative proceedings in response to non-compliance.
- WAC 390-37-056 Alternative Responses to Non-Compliance - Goals and
- WAC 390-37-057 Notices of correction - Process.
- WAC 390-37-058 Deferred enforcement - Process.

#### Existing Rules – Brief Hearing Penalty Schedules

- WAC 390-37-155 Electronic filing brief enforcement hearing penalty schedule.
- WAC 390-37-160 Statement of financial affairs (F-1) penalty schedule.
- WAC 390-37-165 Candidate registration statement (C-1)/candidate statement of financial

Mr. Perkins presented for consideration:

#### Draft New Rules

- WAC 390-37-055 Alternatives to adjudicative proceedings in response to non-compliance

This rule permits the ED to authorize an alternative response to non-compliance in lieu of a formal investigation, adjudicative proceeding, or both.

- WAC 390-37-056 Alternative Responses to Non-Compliance – Goals

Mr. Perkins referred to the chart that is used to demonstrate any decision making that staff would go through to determine if a particular factor would help to tip a complaint toward an investigative adjudicative proceeding vs. an alternative response.

Commissioner Degginger commented on the formal investigation side of the chart and asked if there were circumstances suggesting intentional or inclusive behavior, is this something that should be included?

Tony Perkins noted that staff will add the term collusion to the draft rule language.

Commissioner Levinson commented with language suggestions for the staff to consider.

The Commission asked that the rule be in chart form.

#### Draft Amended Rules

- WAC 390-37-010 Enforcement procedures—General.

Mr. Perkins stated that this amendment specifies that alternative resolution or partial resolution procedures include not only stipulations but also notices of correction and deferred enforcement.

- WAC 390-37-050 Enforcement procedures—Respondent's notice of complaint.

Mr. Perkins stated that this rule previously required staff to provide a notice to the respondent within 10 business days of receipt of a complaint. This amendment provides that information concerning any alternative response that had occurred would be included in the initial notice.

- WAC 390-37-060 Enforcement procedures—Alternative Responses to Non-compliance—Investigation of complaints—Initiation of hearing (adjudicative proceeding).

affairs (F-1) penalty schedule.

- WAC 390-37-170 Lobbyist monthly expense report (L-2) penalty schedule.
- WAC 390-37-175 Lobbyist employer report (L-3) penalty schedule.

Mr. Perkins stated that this rule previously explained what happened when Commission staff receives a complaint including authorizing the Executive Director to conduct a formal investigation and what occurs next.

In addition, under 1(b)(1), the authority is given to the ED to dispose of a complaint through an alternative response as provided in new rule WAC 390-37-055.

Addition in new paragraph 3, the ED can initiate an adjudicative proceeding or provide a report to the Commission whenever a formal investigation reveals evidence that substantial non-compliance, making it clear that those would not follow from a preliminary investigation or initial review of a claim.

Under new paragraph 5(a)(1), staff made clear that these changes to provide alternative responses would also keep documents connected with the initial review or preliminary investigation from public inspection or copying until the alternative response had been issued.

Commissioner Degginger shared a concern that this is something the PDC cannot do. He stated that under the PRA decision, once the investigation is complete it then triggers the obligation to disclose the information if it is requested. Therefore this cannot be tied to the scheduling of the enforcement proceeding.

Mr. Perkins stated that staff will continue to work on the rule and bring this back to the Commission at the next regular meeting.

- WAC 390-37-070 Enforcement procedures—  
Complaints dismissed by executive director.  
No additional suggestions by the Commission.
- WAC 390-37-103 Commission options following receipt of a staff report on alleged violations.  
No additional suggestions by the Commission.
- WAC 390-37-140 Brief enforcement hearings (adjudicative proceedings)—Authority.  
No additional suggestions by the Commission.
- WAC 390-37-142 Brief enforcement hearing (adjudicative proceeding)—Procedure.  
No additional suggestions by the Commission.

Mr. Perkins continued the discussion of the remaining

Draft new rules:

- WAC 390-37-057 Notices of correction - Process.  
No additional suggestions by the Commission.
- WAC 390-37-058 Deferred enforcement - Process.  
No additional suggestions by the Commission.

Mr. Perkins discussed remaining policy questions that will assist with upcoming needs for potential rulemaking.

### Executive Session/Working Lunch

The Commission went into Executive Session at 12:28 p.m. to discuss performance of public employees and pending and potential litigation with legal counsel. Possible action regarding pending litigation following the executive session.

The Commission returned to the meeting at 1:20 p.m.

### Enforcement

1. *Kitsap County Deputy Prosecuting Attorney Guild, Case No. 15-042* involving an alleged violation of RCW 42.17A.405 (2) by making an over-limit in-kind contribution in the amount of approximately \$1,151 to the 2014 Russell Hauge re-election campaign, by copying graphic content, a picture of Mr. Hauge, and endorsement quotes from Mr. Hauge's publically available campaign website, and using this material in political advertising reported as an Independent Expenditure in support of Mr. Hauge.

Phil Bacus, Kitsap Prosecuting Attorney Guild, participated via telephone.

Tony Perkins reviewed the alleged violations in PDC case No. 15-042, King County Deputy Prosecuting Attorney Guild for making an over-limit in-kind contribution in the amount of \$1,151 to the 2014 Russell Hauge re-election campaign.

Staff recommended that the Commission accept the Stipulation as to Facts, Violations, and Penalty.

The Commission recessed to deliberate the matter.

The Commission returned to public session.

### **Motion 15-0055**

Moved by Commissioner Bridges, seconded by Commissioner Asay that:

**The Commission accept the Stipulation as to Facts; the Commission rejects the Violation and Penalty, as the facts do not constitute a violation of the appropriate statute, RCW 42.17A.405.**

The motion passed.

2. *Preserve Marriage Washington, Case No. 13-026* involving alleged violations of RCW 42.17A.235 and .240 by failing to timely report expenditures, debts, and orders

Commissioner Anne Levinson recused herself and did not participate in the hearing, nor was she present in the Commission meeting room.

Joseph Vanderhulst participated via telephone.

placed totaling \$328,737 during its 2012 campaign opposing Referendum 74, a statewide ballot proposition on the November 6, 2012 general election ballot.

Phil Stutzman presented on behalf of PDC staff. The Respondent appeared through Joseph Vanderhulst, Legal Counsel for Preserve Marriage Washington, who participated by telephone and addressed the Commission.

Mr. Stutzman reviewed allegations that Respondent violated RCW 42.17A.235 and .240 by failing to timely report expenditures, debts, and orders placed totaling \$297,587 during its 2012 campaign opposing Referendum 74, a statewide ballot proposition on the November 6, 2012 general election ballot.

Staff recommended that the Commission accept the Stipulations as to Facts, Violation, and Penalty, as presented.

**Motion 15-0056**

Moved by Commissioner Bridges, seconded by Commissioner Asay that:

**The Commission accept the Stipulation as to Facts, Violations and Penalty with the amendment to include that the penalty will be paid within 60 days of the date of the Final Order.**

The motion passed.

**Legislative Report/Budget Update**

Andrea Doyle updated the Commission on the status of the special legislative session.

Ms. Doyle discussed the agency end of year saving as a result of the staff vacancies. She noted that the agency is not allowed to carry these monies forward into the next fiscal year. She reviewed options for best use for these monies between now and the end of the fiscal year.

**Staff Reports**

**Executive Director Report**

Andrea Doyle announced the departure of the Customer Service Specialist, Jon Ammons. He will be transferring to a new position within DSHS.

Ms. Doyle noted that Jana Greer, Executive Assistant, has stepped in to fill the void and will continue to coordinate with staff to develop a coverage plan.

**Chief Information Technology Officer**

James Gutholm highlighted key positive items in his activity report. The Maintenance work that the IT division has finished on the committee and candidate registration process was an incredible team effort throughout the agency. Additional processes have been developed because of this effort.

**Assistant Director**

Tony Perkins reviewed the past months activities including those for Compliance and Communication

areas.

**Adjournment**

The meeting adjourned at 3:00 p.m.

**Approved by the Commission on June 25, 2015.**