



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

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MINUTES – Regular Meeting

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

9:30 a.m.
July 23, 2015

COMMISSION MEMBERS PRESENT

Katrina Asay, Chair
Anne Levinson, Vice Chair
John Bridges, Member
Amit Ranade, Member

STAFF PRESENT

Fred Kiga, Interim Executive Director
Tony Perkins, Acting Assistant Director
Phil Stutzman, Director of Compliance
Linda Dalton, Sr. Assistant Attorney General
Jacob Berkey, Compliance Coordinator
Jana Greer, Executive Assistant

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Asay at 9:30 a.m. in the Evergreen Plaza Building, Room 206 Olympia, Washington.

Opening Comments

Commissioner Asay called the meeting to order at 9:30 a.m.

Citizens Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

No comments or concerns were expressed.

Minutes

- Regular Meeting June 25, 2015

Commissioner Levinson clarified the June 25, 2015 minutes that her reference to Motion 15-0065 regarding rule making discussion was to incorporate the language proposed by the staff as amended through the Commission discussion.

Moved by Commissioner Ranade, seconded by Commissioner Levinson that:

The Commission adopt the regular meeting minutes of June 25, 2015 as corrected.

The motion was passed.

- Special Commission Meeting July 14, 2015

Moved by Commissioner Ranade, seconded by Commissioner Levinson that:

The Commission adopt the special meeting minutes of July 14, 2015.

The motion was passed.

**Compliance and Enforcement
Manual Update**

Strategic Plan Item 4.2

Jacob Berkey provided an overview of the progress of the creation of the compliance manual as outlined in the PDC Strategic Plan 4.2.

He highlighted section 3 of the PDC compliance manual, which provided a timeline and process from a complaint receipt through to the investigation.

Tony Perkins stated that staff understands that following the adoption of the Commissions alternative responses rules, the compliance timeline and process may change.

He also noted that the PDC has engaged the Department of Enterprise Services to assist with process improvement. The PDC has seen the benefits of process improvement in the agency's data entry area and the compliance division's processes are next for review.

Commissioner Levinson suggested that case numbers should be referenced by calendar year and not fiscal year. She stated that members of the public would more likely reference a calendar year when searching or referencing information related to a case.

Rulemaking

Discussion and possible approval of draft proposed language to amend:

- WAC 390-37-030 Enforcement Procedures – Citizen complaints filed with the commission
- WAC 390-12-200 Public disclosure commission – Executive director

Tony Perkins presented for consideration and possible approval the final draft proposed rule language related to providing alternatives to adjudicative proceedings for enforcing Chapter 42.17A and Title 390 WAC.

Once approved, staff will schedule a hearing for the Commission to consider adopting these and the other draft rule language approved in June. The hearing will likely be scheduled during the September 2015 Commission meeting.

The Commission requested modification to the proposed language of WAC 390-37-030 which reserve the discretion to the Commission Chair and that remove the implication the Commission would need to vote.

Commissioner Levinson suggested that staff review the Executive Director's duties described in WAC 390-12-200. The description provides a very narrow set of duties which does not seem commensurate with the level of responsibilities of the Executive Director.

Staff will review and bring a draft to the Commission for review prior to the public hearing.

Motion 15-0068

Moved by Commissioner Ranade, Seconded by Commissioner Levinson that:

The Commission approve the draft language for WAC 390-37-030 as modified by discussion and that it be scheduled for a public hearing.

The motion passed.

Review of Rules Development Agenda for July through December 2015

Lori Anderson presented Staff proposed items for the rule making agenda that is filed with the Code Reviser:

- Inflationary adjustments to contribution limits
- The dollar amounts that were enacted through Initiative 134.
- Based on a past suggestion from Commissioner Ranade, housekeeping change to codes that campaigns use when they are reporting expenditures.
- Substituting signature cards for a “digital” signature.
- Convert interpretation, guidance for fundraising during the legislative session freeze into a rule.

Continued Discussion – Rule Making or Other Future Commission Action Regarding Definition of “Contribution”

Tony Perkins continued the discussion regarding potential rule making on the definition of “contribution,” specifically as it relates to reproducing political advertising. Mr. Perkins presented policy options that the staff believes the Commission has authority to enact. He also noted that the Commission will also need to consider whether to include this subject in its 2016 legislative agenda.

Policy options discussed:

1. Interpret “dissemination, distribution, or republication, in whole or in part...of political advertising” to exclude the copying of a candidate’s “head shot” from a candidate’s website or other advertising.
2. Engage in rulemaking to relieve the benefitted candidate or ballot measure committee from having to disclose an in-kind contribution.
3. Interpret or engage in rulemaking to hinge the status of duplicated advertising as a potential contribution on whether the duplication is coordinated activity.

Dmitri Iglitzin, General Counsel for the Washington State Labor Council and SEIU Counsel, participated via telephone and provided comments to the Commission.

Commissioner Levinson asked Mr. Iglitzin if thought had

been given to whether the public might likely interpret what is disseminated as coming from the campaign.

Mr. Iglitzin did not think that this would be an issue.

Staff will continue to research information bring possible draft language back to the Commission for further discussion and consideration.

Petition for Declaratory Order From Recall Mark Lindquist Committee

Tony Perkins provided an overview and history of the Petition for Declaratory Order from the Recall Mark Lindquist Committee. Mr. Perkins review the Commission's options on how it may proceed in response to the petition under the Declaratory Order RCW 34.05.240 provisions.

Thomas Oldfield, representing the Recall Committee, participated in person and address the Commission.

The Commission went into closed session at 11:10 a.m.

The Commission returned to public meeting at 11:30 a.m.

Motion 15-0069

Moved by Commissioner Ranade, Seconded by Commissioner Levinson that:

The Commission, within 90 days from the date of request filing, issue a Declaratory Order that the Commission will suspend enforcement of the Statute in question provided that the Committee signs a Stipulation as to the Facts that have been presented to the Staff, and that the Committee Stipulates to comply with all other applicable laws, including those applying to contributions.

The Commission asks the Counsel for the Committee to work with the PDC Staff to create the Stipulation.

Commissioner Levinson asked that the Stipulation be presented at the August Commission meeting for the Commission to ratify, and that the staff be clear that in the Stipulation, that it is based on a unique set of facts and not to be a suspended enforcement in toto; it is relative specifically to the facts of this campaign.

The motion passed.

Reporting Modification (New)

- *Anthony Wallace*, School Director, Bellingham School District 501

Jennifer Hansen presented Anthony Wallace's request for a reporting modification that would exempt him from disclosing the financial interests for his spouse, T. J. Brown, during the previous 12 months.

Ms. Hansen stated that Mr. Wallace is in the process of legal separation as of April 2015 although he has not lived at the same residence with Ms. Brown since July 1998.

Mr. Wallace is not aware of Ms. Brown's current location, and he does not believe that she is residing in Washington State. He has not had access to Ms. Brown's financial information or had any benefit from her funds, earnings, accounts or any other resources for more than 15 years.

Motion 15-0070

Moved by Commissioner Ranade, seconded by Commissioner Bridges that:

The Commission grant the partial reporting modification as requested, including the retroactive nature of the request, 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.

Agency Request Legislation 2016

Lori Anderson presented for the Commission's consideration and possible approval of potential agency request legislation. She provided a list of subjects that also contains subjects from the unsuccessful 2015 requests as well as subjects that have come up in commissioners' and staff discussions.

- Personal financial affairs disclosure (F-1)
- Efficiency measures
- Eliminating or revising access goals and performance measures
- Expanding Electronic Filing
- Improving collection efforts
- Amending the definition of "contribution"

Commissioner Levinson requested recommendations from Legal Counsel as well as modifications to the 45-day letter statute.

Staff will bring proposals to the Commission at the September meeting.

Process Improvement

Lori Anderson, James Gutholm, and Ladelle Fuquay discussed the agency current processes improvement exercises.

Executive Session

The Commission went into Executive Session at 12:15 p.m. to discuss and evaluate the qualifications of the Executive Director applicants. The Commission anticipated being in executive session for a duration of 45 minutes.

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

Enforcement

1. *Gina Tveit*, Case No. 15-045 involving alleged violations of: (1) RCW 42.17A.205 by failing to timely file a Candidate Registration; (2) RCW 42.17A.235 and .240 by: failing to timely report contributions and expenditures; (3) RCW 42.17A.405 by accepting an over-limit in-kind contribution; and (4) RCW 42.17A.245 by failing to file contribution and expenditure reports using the required electronic method, during her 2014 campaign for Stevens County District Court Judge.

Case No. 15-045 was held over to a future meeting date and time.

2. *Bailey Stober*, Case No. 14-017 involving alleged violations of RCW 42.17A.235 and .240 by failing to timely and accurately file reports of contributions and expenditures during his 2011 and 2013 campaigns for Kent City Council, and by failing to make his campaign books open for public inspection during his 2013 campaign.

Philip Stutzman presented an overview of the violations by Bailey Stober during his 2011 and 2013 campaigns for Kent City Council: failing to timely and accurately file reports of contributions and expenditures (2011 & 2013); failing to amend his Candidate Registration when his treasurer resigned (2011); failing to preserve books of account (2011); failing to file electronically (2013); and by failing to allow and honor appointments to inspect his campaign books of account (2013).

Bailey Stober was present at the meeting and addressed the Commission.

Staff provided a proposed Stipulation of Facts, Violations, and Penalty for Commission consideration.

Motion 15-0071

Moved by Commissioner Ranade, seconded by Commissioner Bridges that:

The Commission accept the Stipulation as to Facts, Violations and Penalty with modification; The penalty of \$2,000 be made in partial payments, such that \$1,000 be paid within one year from the date of the Final Order and \$1,000 within the second year from the date of the Final Order.

The motion passed.

3. *Jay Inslee for Washington – 2016 Campaign*, Case No. 15-065 involving alleged violations of RCW 42.17A.445 and WAC 390-16-238 by spending campaign funds for a purpose not directly related to

Tony Perkins presented an overview of staff findings, conclusions, and recommendations regarding the allegations contained in PDC Case No. 15-065, a 45-Day Citizen Action Complaint (Complaint) filed on May 27, 2015 by Susan Hutchison, Chair, Washington State Republican Party (WSRP) against Jay Inslee for Washington – 2016

Governor Inslee's 2016 reelection campaign, and RCW 42.17A.640 by failing to register and report a grass roots lobbying campaign on PDC form L-6.

Campaign.

Staff recommended that the Commission recommend to the Attorney General that no further action be taken on the Citizen Action Complaint.

Mike Tiufekchiev, Regional Director for the State Republican Party was present and addressed the Commission.

Moved by Commissioner Ranade, seconded by Commissioner Levinson that:

The Commission accept the Staff recommendation that the Commission recommend to the Attorney General that no further action be taken in the matter of the Citizen Action Complaint.

The motion passed.

Motion 15-0072

Staff Reports

Executive Director

Fred Kiga provided an update on the Executive Director candidate search.

Four candidates have been selected for an in-person interview with the PDC executive screening panel.

Mr. Kiga discussed the IT infrastructure upgrades. There are a number of projects that are a priority and staff will provide milestones of completion to the Commission as they occur over the next two years

Chief Information Officer

James Gutholm stated that the PDC IT division is ready for the current opportunity in the PDC budget.

Mr. Gutholm announced the addition of IT 5 staff member James Coleman.

Assistant Director

Tony Perkins provided a summary of his written report.

Phil Stutzman reported on compliance cases and complaints.

Adjourn

The meeting adjourned at 1:40 p.m.

Approved by the Commission on August 27, 2015.