



State of Washington
PUBLIC DISCLOSURE COMMISSION

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8:30 a.m.
December 5, 2013

MINUTES – REGULAR MEETING

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

COMMISSION MEMBERS PRESENT

Amit Ranade, Chair
Grant Degginger, Vice Chair
Barry Sehlin, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director
Nancy Krier, General Counsel
Linda Dalton, Sr. Assistant Attorney General
Lori Anderson, Communications & Training Officer
Jana Greer, Outreach Specialist
Phil Stutzman, Director of Compliance
Kurt Young, Compliance Officer
Michael Smith, Chief Technology Officer

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Amit Ranade at 8:35 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Opening Comments

Chair Ranade called the meeting to order.

Citizen Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

No comments or concerns were expressed.

Commission Meeting Minutes

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

Motion 14-039

The Commission adopt the minutes of the October 24, 2013, regular meeting as written.

The motion passed unanimously.

Rulemaking

Public hearing and possible adoption of amendments to:

1. WAC 390-05-400 Changes in dollar amounts.
2. WAC 390-16-050 Forms for contributions

Lori Anderson, Communications and Training Officer, presented to the Commission for consideration and possible adoption amendments to WAC 390-05-400 and WAC 390-16-050. The proposed amendment to WAC 390-05-400 inserts the limit for hospital commissioner candidates

and expenditures of out-of-state political committees.

enacted earlier this year and adjust for inflation all contribution limits and other dollar amounts enacted by Initiative 134. The proposed amend to WAC 390-16-050 modifies, for inflation, the disclosure threshold for large, out-of-state contributions reported by a political committee meeting the criteria to report as an out-of-state committee.

No members of the public commented on the rule changes. Steve Gano, Lobbyist, Gano & Associates, asked a clarifying question regarding WAC 390-160-050.

3. WAC 390-20-0101 Forms for lobbyist registration.
4. WAC 390-20-020 Forms for lobbyist report of expenditures.

Ms. Anderson presented to the Commission for consideration and possible adoption amendments to WAC 390-20-0101 to include a notation in the rule indicating the forms are available on the PDC website, as well as at the PDC office, and to add language to the form to clarify that a lobbyist employer, when registering as a representative lobbying entity, must disclose the names of business groups, associations, or organizations paying more than \$500 during certain time periods.

Ms. Anderson also presented to the Commission for consideration and possible adoption amendments to WAC-390-20-020 to emphasize and give an example of the requirement to disclose the amount spent on each person in connection with the lobbying efforts, when the total amount spent exceeds \$25 per occasion. The form currently addresses the total amount, but does not address the per person attribution requirement that was in the instructions, but not on the form. This information is proposed to be added for more consistent and accurate reporting. The amendment also includes a notation in the rule indicating the forms are available on the PDC website, and adds clarifying instructions under section 15 to bring attention to the current disclosure requirement. If approved, an order would be filed with the Code Reviser's Office, and the amendments would go into effect 31 days after filing.

No public comments were received regarding the amendments to WAC 390-20-0101 and WAC 390-20-020.

Motion 14-040

Moved by Commissioner Sehlin, seconded by Commissioner Degginger that:

The Commission amend WAC 390-05-400, WAC 390-16-050, WAC 390-20-0101 and WAC 390-20-020 as presented.

The motion passed unanimously.

Update on Lobbyist Reporting of Entertainment, Food and Beverage

Ms. Anderson provided an update on a continued discussion regarding comments on thresholds and how entertainment is reported by lobbyists. She summarized the discussions from a stakeholder meeting held at the end of November, in which fifteen people attended. There were comments encouraging the Commission to make reporting simpler and how receptions should be reported differently from other entertainment. There was disagreement on whether or not the \$25 threshold should be adjusted. If an adjustment were to occur, \$50 was the consensus about a new threshold for when per person attribution should be required. There was discussion and comments on how difficult it is to track the per person cost for entertainment. Alternative disclosure measures for receptions or other entertainment and changes to the per person attribution requirement would likely need to be through legislative action.

Steve Gano, Lobbyist, Gano & Associates, addressed the Commission to present his concerns with the \$25 threshold, noting that the sheer volume of what needs to be reported under this low threshold serves to dilute the value of the information.

Commissioners Degginger and Sehlin both agreed the \$25 per occasion threshold is too low and should be raised. Chair Ranade agreed that the \$25 threshold is outdated and would like to consider a per person rather than per occasion threshold if possible. He also noted that the public has a right to know about the frequency of lobbying

entertainment/meals even when they are low cost events. The Commission requested staff to get more information for the next meeting on other possible approaches used by other states for reporting of entertainment and food and beverages, including separate reporting of receptions, in order to continue the discussion.

On-line Lobbying Disclosures Background

Nancy Krier, General Counsel, provided background information and a PowerPoint presentation regarding previous discussions concerning online lobbying as a check-in to see if the Commission would like to consider providing formal guidance on this topic. Commissioner Degginger expressed his view that additional outreach and educational efforts on this topic may be most useful, especially with local governments.

2013 Election

Ms. Anderson presented a preliminary report and PowerPoint presentation summarizing contributions and expenditures for the 2013 election. Ms. Anderson highlighted the big elections which included the statewide ballot measures. For Initiative 522, the combined total spent was \$40 million; and for Initiative 517, total spent was a little less than \$1 million. Initiative 522 will be the record breaker for going forward.

The other big election this year was the 26th Legislative District Senate race where independent expenditures exceeded the candidates' direct spending. Independent expenditures were at \$1.8 million. Candidate direct spending so far is at \$1.2 million. This was the most expensive legislative campaign to date.

The Seattle Mayor's election was at \$2.2 million so far which is particularly notable because the City of Seattle has its own contribution limits of \$700 per cycle, per contributor.

Progress Report on Strategic Plan Item Re: Updating Printed Materials (Brochures)

Jana Greer, Outreach Specialist, provided a status report on updating PDC brochures. Improvements included the addition of the new agency logo, hyperlinks throughout, changes to improve readability, different fonts, and the addition of white space. The brochures also encourage the public to go to the PDC website and to e-file. Ms. Greer

will move forward to do similar work with the PDC manuals.

Executive Session

The Commission went into Executive Session and returned from Executive Session at 10:25 a.m.

Enforcement

Reports to Commission re: 45 Day Citizen Action Letters:

- *Saving Whatcom County dba Save Whatcom*, (45-Day Citizen Action Letter) Case No. 14-004, involving alleged violations of RCW 42.17A.235, 42.17A.240, and 42.17A.245 by failing to file timely and accurate reports of contributions and expenditures, and by failing to file reports electronically.
- *Whatcom First*, (45-Day Citizen Action Letter) Case No. 14-005, involving alleged violations of RCW 42.17A.235 and 42.17A.240 by failing to file timely and accurate reports of contributions and expenditures.

Kurt Young, Compliance Officer, presented *Saving Whatcom County dba Save Whatcom* (45-day Citizen Action Letter) PDC Case No. 14-004.

Mr. Young summarized staff's findings and recommendations regarding the 45-day citizen action letter filed by Mike Estes against *Saving Whatcom County dba Save Whatcom* in PDC Case No. 14-004 and *Whatcom First* in PDC Case No. 14-005, alleging that the committees failed to file timely and accurate reports of contributions and expenditures, and failed to file reports electronically.

The staff recommends the Commission accept the stipulation, which includes a civil penalty for *Saving Whatcom County* of \$2,000 with \$1,000 suspended, pending no further violations for four years, and the non-suspended portion paid within 30 days. For *Whatcom First* the stipulation includes a penalty of \$1,000 with \$500 suspended on the same conditions.

Dan Brady, attorney for *Saving Whatcom County* and *Whatcom First* was in attendance supporting the stipulation with Orphalee Smith, Treasurer for *Saving Whatcom County* and *Whatcom First*; Chris Halterman, Chair of *Save Whatcom*; Lorraine Newman, Secretary of *Save Whatcom*; Chet Dow, Secretary of *Whatcom First*.

Commissioner Degginger suggested a ten minute recess for the Commission to consider the stipulation in closed session.

After the Commission's deliberations, Commissioner Degginger stated the Commission is uncomfortable with the proposed penalty. The Commission believes the civil penalty for *Save Whatcom* should be \$3,000 with \$1,000 suspended under the conditions set forth in the stipulation. *Whatcom First* should receive a civil

penalty of \$1,500 with \$500 suspended. Commissioner Degginger explained that the reason for the higher penalties is because this campaign raised a remarkable amount of money in a week and it was disclosed late and after the ballots were mailed. It is important to follow the rules so that the public knows in a timely matter what the organization is doing and who is contributing to the organization.

Chair Ranade called for a ten minute recess for Mr. Brady to consult with his clients and suspended consideration of the matters until later in the meeting.

- *Tristine Samberg*, (45-Day Citizen Action Letter) Tracking Number T14-050, involving alleged violations of RCW 42.17A.205, 42.17A.700, 42.17A.235 and 42.17A.240 by: (1) Failing to timely file a Candidate Registration (C-1 report); Failing to timely file a Personal Financial Affairs Statement (F-1 report); and (3) Failing to timely file and accurate reports of contributions and expenditures.

Tony Perkins, Compliance Officer, presented a report concerning a 45-day citizen action letter was filed by Steven Fields against Tristine Samberg involving alleged violations of RCW 42.17A.205, 42.17A.700, 42.17A.235 and 42.17A.240 by: (1) Failing to timely file a Candidate Registration (C-1 report); Failing to timely file a Personal Financial Affairs Statement (F-1 report); and (3) Failing to timely file and accurate reports of contributions and expenditures.

The allegations concern Ms. Samberg's campaign for Bothell City Council in 2011 and 2013.

The staff recommends the Commission dismiss the allegations in the complaint, issue a reminder to Ms. Samberg about the proper disposition of reporting surplus funds, and recommend to the Attorney General and Prosecuting Attorney that no further action be taken.

Motion 14-041

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

The Commission dismiss the allegations in the complaint, issue a reminder to Ms. Samberg about the proper disposition of reporting surplus funds, and recommend to the Attorney General and Prosecuting Attorney that no further action be taken.

The motion passed unanimously.

Agency Staffing

Ms. Doyle presented background materials and considerations for the replacement of Nancy Krier, General Counsel. Ms. Doyle would like to reallocate the FTE by turning it into a General Counsel/Deputy Director position.

Enforcement (continued)

Chair Ranade returned to the enforcement matters *Saving Whatcom County dba Save Whatcom* in PDC Case No. 14-004 and *Whatcom First* in PDC Case No. 14-005

Mr. Brady sought to make two clarifications before accepting the stipulations: first that the committee believes that ballots weren't received by any voters before October 1, 2013, and secondly, that the stipulation was two days late, rather than three.

The Chair confirmed with Commission staff and with Mr. Brady that all parties (staff, *Saving Whatcom* and *Whatcom First*) agreed to the higher penalties sought by the Commission.

Motion 14-042

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

The Commission accept the stipulation concerning *Saving Whatcom County dba Save Whatcom* as amended to include a penalty of \$3,000 with \$1,000 suspended, pending no further violations for four years, and the non-suspended portion paid in 30 days.

The motion passed unanimously.

Motion 14-043

The Commission accept the stipulation concerning *Whatcom First* as amended to include a penalty of \$1,500 with \$500 suspended, pending no further violations for four years, and the non-suspended portion paid in 30 days.

The motion passed unanimously.

Motion 14-044

Moved by Commissioner Degginger, seconded by Commissioner Sehlin that:

The Attorney General take no further action in the 45-day citizen action complaint with respect

to either committee.

The motion passed unanimously.

Staff Reports

Due to time constraints, Chair Ranade suggested giving Ms. Doyle the opportunity to confer with individual Commissioners to get feedback regarding her decision of how to reconfigure and fill the vacant staff position. The Chair also deferred the staff's presentation of the new application for pending reports until the next meeting.

Ms. Doyle reported the PDC's agency request bill from last year is still alive this session along with Commissioner Degginger's confirmation. Ms. Doyle noted we have still not heard back from the Governor's Office on the PDC's IT decision packages.

Commissioner Comments

Chair Ranade expressed the Commission's appreciation for Ms. Krier's wise counsel over the years and stated she will be missed terribly. She has been a wealth of information to the Commission.

Commissioner Sehlin stated the PDC will have a significant challenge in replacing Ms. Krier. She has done an excellent job of keeping the Chair functioning properly. Having served as Chair, he has relied on Ms. Krier in this critical role. It has been an appreciated critical role.

Commissioner Degginger stated it was a pleasure to work with Nancy, to see her share her knowledge and how well it was received. He will miss her ability to telescope what is coming ahead. She will be missed for her great knowledge and teamwork with Linda Dalton.

Chair Ranade read a letter from Governor Inslee to Commissioner Sehlin commending him for his service to the PDC.

Chair Ranade indicated it has been a pleasure working with Commissioner Sehlin for the past few years and appreciated his fairness in difficult circumstances. Commissioner Sehlin has a wisdom about him and ability to counsel people.

He appreciated Commissioner Sehlin's guidance.

Commissioner Degginger expressed his appreciation for Commissioner Sehlin's leadership and setting an example of how the work at the PDC needs to be done. He has demonstrated fairness in every possible measure.

Commissioner Sehlin stated that his fellow Commissioners are prime examples of people who have willingly contributed time and who are dedicated to doing things right. He has been very impressed with the willingness of the other Commissioners to deal with serious issues in serious way. The insight from having two attorneys as Commissioners has also been appreciated. The last few years have not been easy for the PDC staff, not only in workload as staff numbers decreased, but the challenges that affected their families with actual reductions in income. He indicated he has never heard anything but positive response from the staff at the PDC and hopes the future holds a brighter light in terms of staffing and support.

Adjourn

Meeting adjourned at 12 noon.