

State of Washington
PUBLIC DISCLOSURE COMMISSION
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MINUTES – Regular Meeting

9:30 a.m. | April 23, 2020

711 Capitol Way S. #206

Olympia, Washington

Commission Members Present (Participated via Microsoft Teams Online)

David Ammons, Chair; Russell Lehman, Vice Chair; Bill Downing, member; Fred Jarrett, member; Nancy Isserlis, member.

Staff Present (Participated via Microsoft Teams Online)

Peter Lavalley, 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; Fox Blackhorn-Delph, Compliance Coordinator 2; Tabitha Townsend, Compliance Coordinator; Tabatha Blacksmith, Compliance Coordinator; Jenny Polek, Filer Assistance Specialist; Scott Haley, Filer Assistance Specialist; Chad Johnson, Senior Financial Consultant, Department of Enterprise Services (DES); 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 9:36 a.m.

[PDC Meeting Video](#)

COVID 19 update: The March 26, 2020 Public Disclosure Commission Meeting was streamed live at <https://www.youtube.com/user/WASTPDC/live>.

The April commission meeting was held remotely pursuant to the Governor’s Emergency Proclamation [20-28](#) regarding Covid-19, waiving in-person meeting and access requirements.

Public Comments | [PDC Meeting Video](#)

A Public Comment period was noticed and announced, and a conference call line was provided for public comment during this time.

Kathy Sakahara, Democracy Issues Chair for the League of Women Voters of Washington; commented (via telephone) on the online availability of Personal Financial Affairs Statements (F-1s) for Legislative Staff. Ms. Sakahara expressed her concern to the Commission and asked what one considers the definition of a Public Official based on the PDC mission; also, that she did not consider nonpartisan Legislative Staff to fall under the definition. She asked the Commission to postpone publication of Legislative Staff financial affairs online until after the 2021 session, so that the Legislature may again consider possible action.

Opening Remarks | [PDC Meeting Video](#)

Chair Ammons offered the Commission’s appreciation to Staff during this difficult time and recognized their efforts to continue to uphold the agency’s mission even during a time of crisis.

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Chair Ammons also noted that the PDC received good news regarding litigation with the state Supreme Court decision to uphold the Commission's and the Attorney General's enforcement efforts in the Grocery Manufacturers Association Case, [No. 96604-4](#), reinstating the \$18 million dollar penalty imposed.

Executive Director Peter Lavalley expressed his gratitude toward Staff for their continued efforts, coordination, and adaptivity. Staff continue to have regular meetings both large and small to help with teamwork, comradery, and productivity. These meetings will be held remotely.

Consideration and Possible Approval of Meeting Minutes | [PDC Meeting Video](#)

Meeting minutes were presented to the Commission for consideration and possible approval:

- March 26, 2020 Regular Meeting

MOTION 20-020 Moved by Commissioner Lehman and seconded by Commissioner Jarrett that:

The Commission approve the meeting minutes for the March 26, 2020 Regular meeting minutes as presented.

The motion passed 5-0.

Budget Update | [PDC Meeting Video](#)

Executive Director Lavalley updated the Commission on the current status of the PDC expenditures and budget. The Executive team and DES Senior Financial Consultant, Chad Johnson, continue to discuss and plan for any potential impact COVID-19 would have on the agency.

Staff Updates on Rulemaking, Interpretations, and Legislation | [PDC Meeting Video](#)

Staff have begun to draft an emergency rule implementing [Substitute Senate Bill 6152](#) regarding participation in Washington state elections by entities with foreign-national ownership or control. This emergency rule will be presented to the Commission for consideration and possible approval at the upcoming May 28 commission regular meeting. Staff continue working on the permanent rule process as well, with intent to file a CR101 with the code revisor, which alerts the public that the agency anticipates rulemaking.

On the legislative front, the most immediate and prime concern of the Legislature is the response to COVID-19 at this time.

Staff will continue to monitor legislative developments and engage with legislative members in the coming month regarding issues including the digital ad disclosure project and legislative staff F-1s.

Regarding Interpretations, the previously discussed Supreme Court decision discusses the Primary Purpose Test, and Staff will incorporate this new case law into the draft Interpretation on the subject.

Chair Ammons suggested that Staff consider for 2020-2021 revisiting campaign-finance reporting dates and reexamining how they interact with the campaign/election season. Staff confirmed that this will be looked at in the context of revamping the campaign reporting system.

Discussion and Possible Commission Action Regarding Online Availability of Legislative Staff

Financial Disclosures | [PDC Meeting Video](#)

Director Lavalée briefed the Commission regarding discussions held with signatories to the letter from legislators to the Commission requesting that the PDC postpone making Legislative Staff financial affairs reports available online.

Commissioners debated the merits of moving forward with online availability and other possible options, including the availability of the reporting modification process to concerned individuals.

MOTION 20-021 Moved by Commissioner Lehman and seconded by Commissioner Isserlis that:

The Commission extend the exception granted to Legislative Professional Staff made at the September 26, 2019 Regular Meeting to delay the public online accessibility for Legislative Professional Staff financial affairs statements until July 24, 2020.

The motion passed 5-0.

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

10:48 a.m. The Commission conducted a hearing of requests for reporting modifications remotely. Fox Blackhorn-Delph, Compliance Coordinator 2; Tabitha Townsend, Compliance Coordinator; Tabatha Blacksmith, Compliance Coordinator; and Jennifer Hansen, Compliance Officer, presented the requests to the Commission for consideration and possible approval.

The Commission agreed as a matter of general procedure for the PDC that a reporting modification request be granted for the term of office held for the filer. Material changes during the approved timeframe, however, would be subject to re-evaluation by the Commission.

MOTION 20-022 Moved by Commissioner Jarrett and seconded by Commissioner Ammons that:

The Commission grant a modification request for the term of office held by the incumbent.

The motion passed 5-0.

The following individuals requested new reporting modifications (all new applicants waived their right to participate):

[Scott Moore](#) – City Council Member, City of Clyde Hill [WAC 390-28-100\(1\)\(b\)](#)

[Suzan LeVine](#) – Agency Director, Employment Security Department [WAC 390-28-100\(1\)\(b\)](#)

[Alishia Topper](#) – Treasurer, Clark County [WAC 390-28-100\(1\)\(b\)](#)

[Sally Olsen](#) – Superior Court Judge, Kitsap County [WAC 390-28-100\(1\)\(e\)\(iv\)](#)

MOTION 20-023 Moved by Commissioner Jarrett and seconded by Commissioner Downing

that:

The Commission grant the requests for partial reporting modification on the basis that literal application of the law would cause a manifestly unreasonable hardship for these applicants and that the limited modifications requested would not frustrate the purposes of the Act.

The motion passed 4-1.

Commissioners Ammons, Downing, Jarrett, and Isserlis voted to approve.

Commissioner Lehman voted against the motion.

The following individuals requested a renewed modification (3 of 4 applicants participated by phone, via Microsoft Teams):

[Lora Petso](#) – Commissioner, Olympic View Water District [WAC 390-28-100\(1\)\(e\)](#)
Participated by Phone via Microsoft Teams.

MOTION 20-024 Moved by Commissioner Jarrett and seconded by Commissioner Downing that:

The Commission deny the partial reporting modification as requested, on the basis that the requestor has not met their burden of proof under RCW 42.17A.120.

The motion passed 5-0.

[Drew Hansen](#) – State Representative, Legislative District 23 [WAC 390-28-100\(1\)\(e\)\(i\)](#)
Participated by Phone via Microsoft Teams.

[Benson Wong](#) – City Council Member, City of Mercer Island [WAC 390-28-100\(1\)\(e\)\(i\)](#)
Participated by Phone via Microsoft Teams.

Commissioner Jarrett noted that he is acquainted with Mr. Wong but said that would not impede his ability to consider the matter impartially.

[F. Lorraine Bodi](#) – City Council Member, City of Lake Forest Park [WAC 390-28-100\(1\)\(e\)\(ii\)](#)
Commissioner Downing noted that he is acquainted with Ms. Bodi but said that would not impede his ability to consider the matter impartially.

MOTION 20-025 Moved by Commissioner Lehman and seconded by Commissioner Downing that:

The Commission grant these requests for partial reporting modifications on the basis that literal application of the law would cause a manifestly unreasonable hardship for the applicants and that the limited modifications requested would not frustrate the purposes of the Act.

The motion passed 5-0.

Reporting Modification Process Report | [PDC Meeting Video](#)

Vice Chair Lehman and Commissioner Isserlis summarized their research on reporting modification requests and the possible utilization of brief adjudicative proceedings (BAP) for modifications. Commissioner Lehman stated many changes had occurred since the implementation of [HB 1195](#), resulting in insufficient time and data for a thorough analysis. He and Commissioner Isserlis recommended the Commission postpone a decision on the approach to BAP utilization until October 2020, to allow for further examination.

Deputy Director Sandahl and Compliance Officer Hansen added there were 29 modification requests pending and that a special May meeting may be necessary to accommodate the volume.

The commission concurred and asked the Executive Director to schedule the matter for the October meeting.

Enforcement Updates | [PDC Meeting Video](#)

Kurt Young, Compliance Officer, provided the enforcement update report for the period March 13, 2020 to April 13, 2020:

50 Active Cases Open

32 Initial Hearings **have been held**

18 Cases Under Assessment

Currently 49 Active Cases Open

14 Pre-effective date of House Bill 2938

35 Post-effective date of House Bill 2938

17 Cases Closed during the Period

- 4 Cases Closed with Reminder
- 3 Cases Closed with Formal Written Warning
- 3 Cases Closed Administratively
- 4 Cases Resolved through Statement of Understanding
- 3 Cases Closed with Violations Found by the Commission

Regarding the continued existence of aging cases in the queue, Executive Director Lavallee noted that all Compliance Officers are assigned Pre-2938 cases and Post-2938 cases. Post-2938 cases require state action within 90-days, while the Pre-2938 cases do not. Staff continue to work diligently to resolve both categories so Pre-2938 do not languish.

Management Team Updates | [PDC Meeting Video](#)

Peter Lavallee, Executive Director presented updates to the Commission.

- Budget Concerns
- Telework Management

Agency Spotlight

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Jenny Polek, Filer Assistance Specialist, and Scott Haley, Filer Assistance Specialist, discussed the transition to online Compliance and ORCA classes for filers and treasurers.

Kim Bradford, Communications and Outreach Director, provided Customer Service and Filer Assistance updates to the Commission.

- F-1 Filing Season, 1600 Filers Still Currently Owe Reports
- Continued Reminders Being Sent
- Filing Questions during Covid-19
- PDC Homepage Help
- Website Feasibility Study

James Gutholm, Chief Information Officer, provided an update on the PDC IT activity report.

- F-1 Review: 107,000 Documents to Be Reviewed
- Website Usability
- F-1 Filing-day Complications and Solutions
- Declarations and Declaration Process
- Fulfillment of PDC Information Technology Recruitment

Executive Session | [PDC Meeting Video](#)

The Commission went into Executive Session at 1:08 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 personnel matters.

Returned to public meeting at 1:27 p.m.

Meeting adjourned at 1:28 p.m.

Approved May 28, 2020.