

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: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

MINUTES – Regular Meeting

9:30 a.m. | September 24, 2020

711 Capitol Way S. #206

Olympia, Washington

Commission Members Present (Participated via Microsoft Teams Online)

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

Staff Present (Participated via Microsoft Teams Online)

Peter Frey 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; Alice Fiman, Compliance Officer; 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 9:32 a.m.

[PDC Meeting Video](#)

COVID-19 update: The September 24, 2020 Public Disclosure Commission Meeting was streamed live at <https://www.youtube.com/user/WASTPDC/live>.

The September 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 Comment | [PDC Meeting Video](#)

As was noticed and announced, a conference call line was provided for public comment during this time.

No person(s) provided public comment at the September 24, 2020, Regular Meeting.

Chair Opening Comments | [PDC Meeting Video](#)

Chair Ammons thanked PDC staff and fellow Commissioners for continuing to serve during this challenging time and noted his appreciation of the continued high morale among staff. The Chair remarked on the budget memo Deputy Director Sandahl provided outlining the potential impacts to the agency, as well as positive news regarding the current budget forecast for the state.

Director Lavalley gave his remarks on how well staff continue to work from home, while still adjusting to the realities of the pandemic. While Director Lavalley does not anticipate a return to the office soon, he looks forward to the opportunity to allow segments of staff to return to the office on a regular basis in the future. Despite the circumstances with the office remaining closed to the public, the agency continues to do a great job in providing information and access. He thanked Jana Greer, Administrative Officer; Ashley Miller, Customer Service Specialist; and James Gutholm, CIO, for their efforts in ensuring successful meeting streaming.

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

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

- August 27, 2020, Regular Meeting

MOTION 20-076 Moved by Commissioner Jarrett and seconded by Commissioner Isserlis that:

The Commission approve the meeting minutes for the August 27, 2020, regular meeting as presented.

The motion passed 5 - 0.

Rulemaking Update | [PDC Meeting Video](#)

BG Sandahl, Deputy Director, presented for consideration and possible approval an extension of emergency rules to implement [SSB 6152](#), concerning certification of the level of foreign national ownership for corporations that participate in Washington state elections. This procedural step needs to occur because the emergency rules in place expire October 11, 2020. The extension would extend the rules through February 11, 2021. A public hearing is scheduled for the December 3, 2020, regular Commission meeting for stakeholder input and discussion.

MOTION 20-077 Moved by Commissioner Downing and seconded by Commissioner Jarrett that:

The Commission approve the request for the rulemaking extension for emergency rules for SSB6152 until February 11, 2021.

The motion passed 5 - 0.

Rulemaking Continued – Foreign Donor Prohibition | [PDC Meeting Video](#)

Sean Flynn, General Counsel, provided an overview of proposed permanent rules for [SSB 6152](#) for consideration, regarding foreign donors and the process on reporting certifications that are required to be received from non-individual contributors; and to put forth for public comment on the permanent rules for implementation of new sections, [WAC 390-16-330](#) and [WAC 390-16-335](#).

MOTION 20-078 Moved by Commissioner Jarrett and seconded by Commissioner Isserlis that:

The Commission approve the proposed language for permanent rules implementing SSB 6152, to be put forth for public comment on the permanent rules for implementation of WAC 390-16-330 and WAC 390-16-335.

The motion passed 5 - 0.

Rulemaking Continued – Statement of Financial Affairs | [PDC Meeting Video](#)

General Counsel Flynn discussed proposed amendments to [WAC 390-24](#), regarding F-1 reporting requirements. Since implementation of the new financial affairs reporting application, clarifying and technical changes were needed in addition to removal of any references no longer applicable.

Chair Ammons stated that the suggestion of expanding the address confidentiality for Sheriffs and Prosecutors, etc. to now include deputies, could exceed the authority of the statute. If this category of filers does want this confidentiality available, it would be a policy question for the Legislature.

Mr. Flynn also discussed proposed amendments to [WAC 390-28](#) regarding modification requests. Commissioner Downing stated that the criteria for requesting a modification for income and ownership interests should not require the showing of a confidential relationship but could also include economic hardship as grounds for the request. Commissioner Lehman stated that confidential relationships should only be considered in exceptional circumstances.

MOTION 20-079 Moved by Commissioner Downing and seconded by Commissioner Lehman that:

The Commission approve the recommended proposed rules, with the incorporation of the alternative proposed language for [WAC 390-28-100](#) regarding confidential agreements as a criteria of the hardship showing, and not a stand-alone element.

The motion passed 5 - 0.

Enforcement Updates | [PDC Meeting Video](#)

Kurt Young, Compliance Officer, provided the enforcement update report for the period August 18, 2020, to September 14, 2020.

As of September 14, 2020:

53 Active Cases Open

12 Under Investigation with Initial Hearings

41 Cases Under Assessment

Currently 72 Active Cases Open (including additional post-9/14 complaints)

5 Pre-effective date of House Bill 2938

45 Post-effective date of House Bill 2938

22 Staff generated complaints as a result of 2020 Candidate group enforcement

25 Cases Closed during the Period

- 6 Cases found with No Evidence of Violations
- 9 Cases Closed with Reminder
- 5 Case Closed with Formal Written Warning
- 2 Cases Closed as Unfounded
- 2 Cases Referred to the Attorney General by the Commission
- 1 Case resolved through complaint publication process

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

[Peter Lavallee](#), Executive Director presented updates to the Commission.

- Budget Update
- Strategic Plan Update

[BG Sandahl](#), Deputy Director, presented updates to the Commission.

- Legislative Candidate Report Reviews
- Upcoming brief enforcement process for 21 candidates failing to file F-1 or C-1
- Compliance communications with filers
- Kudos to staff
- Warning Letter Mailings
- Strategic Plan Update

[Kim Bradford](#), Communications and Outreach Director, provided Customer Service and Filer Assistance updates to the Commission.

- Mini to Full Approvals
- Upcoming 21-22 biennium lobbyist registrations
- New lobbyist training course
- F-1 usability testing
- 2021 Campaign Training
- Recalls and Recall Committee Information
- Digital Political Advertising Report Summary

[James Gutholm](#), Chief Information Officer, provided an update on PDC IT activity.

- Campaign Explorer Showcase
- Guide for Campaign Explorer Tool on PDC website
- Lobbyist Application Updates

Budget Update | [PDC Meeting Video](#)

Chad Johnson, Senior Financial Consultant, (DES), presented an overview to the Commission of the recommendation summary for the PDC's submitted 21-23 biennium budget. Mr. Johnson noted the agency has not been asked to submit any additional cut information for supplemental Fiscal Year 21.

Break/Executive Session

The Commission went into Executive Session at 11:45 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 1:04 p.m.

Enforcement | [PDC Meeting Video](#)

Chad Standifer, Assistant Attorney General, presented the proposed Stipulation for [PDC Case 66161, Joshua Freed](#), a 2020 candidate for Governor, involving alleged violations of [RCW 42.17A.445](#), by exceeding the \$6,000 per election candidate loan repayment limits when his Campaign repaid Joshua Freed at least \$450,000 of a \$500,000 candidate loan he made to the campaign, which he later purported to report as a contribution; [RCW 42.17A.235](#) and [RCW 42.17A.240](#), by failing to timely and properly disclose the acceptance and repayment of the contribution/loan by the Campaign; [RCW 42.17A.145](#) and [RCW 42.17A.235\(9\)](#), by filing reports concerning the contribution/loan that were not

correct as was certified; and [WAC 390-16-226\(1\)](#), by failing to record the loan in a written loan agreement executed at the time of the loan.

Mark Lamb, Counsel to Joshua Freed, participated by phone via Microsoft Teams.

Closed Session

The Commission went into closed session at 1:45 p.m. and returned to public meeting at 2:07 p.m.

MOTION 20-080 Moved by Commissioner Lehman and seconded by Commissioner Isserlis that:

The Commission approve the Stipulation as to Facts, Violations and Penalty as presented. A penalty was assessed of \$50,000 with \$25,000 suspended, conditioned on no further violations of RCW 42.17A or WAC 390 within four years of the date of the final order, and that the respondent be in compliance with all reporting requirements. If the Respondent fails to comply with any of the conditions of the Order, the suspended portion will immediately come due without further action by the Commission. The unsuspending amount is due within 60 days of the date of the final order, and if the respondent fails to make timely payment of the non-suspended portion of the penalty, the \$25,000 suspended portion shall immediately become due.

The motion passed 5 - 0.

Agency Spotlight | [PDC Meeting Video](#)

Executive Director Lavalley expanded on the discussion of PDC auditing initiatives at previous meetings, as part of a broad umbrella of Data Integrity. The PDC performs regular audits and continues to review data with the goal of timely transparency, providing the public with access to accurate information and helping filers to file their reports correctly, but the efforts to ensure data integrity go well beyond traditional audit activities.

Communications and Outreach Director Bradford noted the PDC having already made multiple efforts in ensuring accurate data, such as developing better filing systems that help prevent filers from making mistakes, notifying them of any corrections to be made and allowing them to file complete reports. She noted since the launch of Open Data in 2017, both the public and PDC staff have access to the same information and datasets, allowing for better outreach and spot compliance checks. Staff continue to perform audits and to assist to filers whose reports require corrections to ensure data integrity prior to the auditing and compliance stage.

Meeting adjourned at 2:30 p.m.

Approved October 22, 2020.

Next steps/Follow-up:

- Rulemaking – potential public hearing to be held at the December 3, 2020, regular Commission meeting for stakeholder input and discussion.