



State of Washington
PUBLIC DISCLOSURE COMMISSION

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10:00 a.m.
February 27, 2014

MINUTES – REGULAR MEETING

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

COMMISSION MEMBERS PRESENT

Amit Ranade, Chair
Grant Degginger, Vice Chair
Kathy Turner, Member
Katrina Asay, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director
Linda Dalton, Sr. Assistant Attorney General
Lori Anderson, Communications & Training Officer
Chip Beatty, Filer Assistance Specialist
Phil Stutzman, Director of Compliance
Kurt Young, Compliance Officer
Tony Perkins, Compliance Officer
Jacob Berkey, Compliance Coordinator
Jana Greer, Outreach Specialist

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Ranade at 10:18 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

Chair Ranade welcomed Commissioner Asay. Commissioner Asay introduced herself and shared that she was previously the mayor of the City of Milton, and on the city council prior to that. She was also a state legislator. She appreciates the opportunity to continue service in a different capacity.

Commission Meeting Minutes

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

Motion 14-051

The Commission adopt the minutes of the January 23, 2014, regular meeting as written.

The motion passed.

Rulemaking

2014 Rule Making Agenda

Lori Anderson, Communications and Training Officer, reported the Commission's semi-annual agenda for rules under development was filed with the Code Reviser's Office in January. The upcoming rulemaking may address several topics including the Commission's consideration to amend its mini reporting rules. Ms. Anderson explained that the Administrative Procedures Act encourages agencies to convert their long-standing interpretations to rules. The Commission currently has approximately 25 interpretive statements that are more than 10 years old which have not been converted into rule, superseded or otherwise withdrawn.

As a second rulemaking agenda topic, staff will present one or two proposals to the Commission each month until the conversions are complete.

As a third topic, the Commission has discussed lobbying disclosure thresholds and reporting of lobbying expenses for entertainment, food, and beverages. In January, the Commission expressed interest in adjusting the thresholds and pursuing alternative disclosure requirements for receptions, but is waiting to see whether legislative changes are made before taking further action.

Staff will be working on a Personal Financial Affairs Statement (F-1) review which will be discussed during the strategic plan portion of the meeting. In regards to form updates, the Commission has already approved expedited rule making to add the website to those rules where online access is not included.

In addition, housekeeping changes were discussed for reporting codes that are used to disclose expenditures by campaigns. Chair Ranade asked staff to bring more transparency to independent expenditures. This task would require software changes and staff expects to have proposals for the Commission to consider before the end of June.

Finally, there are two new possible rulemaking projects that have not been looked into which are

the informal settlement procedures review and the revisions that may be necessary in the Executive Director's duties based on other changes to the enforcement/settlement rules.

Discussion and possible approval of draft language for:

- Mini Reporting Rules
 - 1) Amend WAC 390-16-105, Mini Campaign reporting - Eligibility
 - 2) Amend WAC 390-16-125, Mini Campaign reporting - Exceeding limitations

Ms. Anderson presented to the Commission proposed draft language for amending WAC 390-16-105, Mini campaign reporting - Eligibility, to clarify that a candidate or political committee who selects the mini reporting option when registering must comply with all provisions of RCW 42.17A, including disclosing contributions and expenditures as well as applicable contribution limits, upon failing to comply with the mini reporting thresholds. The proposed draft changes also amend WAC 390-16-125, Mini campaign reporting - Exceeding limitations to allow the staff the option of approving an application to change reporting options submitted after the applicant has exceeded the contribution or expenditure threshold, provided the applicant acknowledges a violation(s) of RCW 42.17A or WAC 390-17 and completes the steps necessary to comply with RCW 42.17A. This would include filing accurate contribution and expenditure reports to disclose all transactions from the beginning of the campaign to the date of the application. Staff recommends the Commission approve the proposed draft language to amend WAC 390-16-105 and 390-16-125.

Ms. Anderson advised the Commission that written comments and suggestions were received by Jim Lazar and available for the Commission's review.

Motion 14-052

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission approve the draft amendments to WAC 390-16-105 and WAC 390-16-125 proposed in option 2(B) with the additional amendment to change "postmarked" to "received" whenever it appears in the rule.

The motion passed unanimously.

- Converting Interpretive Statements to Rules
 - 1) Amend WAC 390-16-063, Additional

Ms. Anderson presented to the Commission for consideration and possible approval two options for draft language to convert interpretation 07-01,

information regarding C-6 report filing

Computing Thresholds for Independent Expenditures into WAC 390-16-063.

This conversion would also require one of two additional rule changes which Ms. Anderson described as Options 1 or 2.

Option No. 1 would leave WAC 390-17-303 intact and adopt a new WAC 390-17-301 that would clarify that candidates subject to limit may receive primary election contributions only when their name appears on the ballot or as a write-in candidate for the primary election.

Option No. 2 would accomplish the same thing by amending WAC 390-17-303.

Motion 14-053

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission move to incorporate Interpretation 07-01 into WAC 390-16-063 and use Option No. 1.

The motion passed unanimously.

- Converting Interpretive Statements to Rules
- 2) New WAC 390-17-301, Eligibility to receive primary election contributions

Ms. Anderson presented to the Commission for consideration and possible approval to convert 04-01, Contribution Limits: Impact When a Candidate Subject to Limit Does Not Have a Primary Election into WAC 390-17-301.

Motion 14-054

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission move to incorporate Interpretation 04-01 into proposed new WAC 390-17-301.

The motion passed unanimously.

Legislative Update

Andrea McNamara Doyle provided status updates on bills still active this session which include HB 1005, 2121, 2552, SB 5964 and 6059. If HB 2121 passes, Mr. Doyle pointed out this bill would apply to the Commission and require training public officials and employees regarding public records, records management, and open public meetings.

This training would be on-line. In addition, neither of the bills the Commission had previously expressed concerns about (SB 6371 and 6323) had survived the last cutoff. Ms. Doyle also provided an update on lobbyist reporting of entertainment, food, and beverages and the PDC budget.

Reporting Modifications

New

- John H. Chun, appointed King County Superior Court Judge. Requesting to not disclose the business customers of Summit Law Group PLLC and to not disclose his residential address.

Chip Beatty, Filer Assistance Specialist, presented John H. Chun's request for reporting modification.

Mr. Beatty stated that Judge Chun who is a recently appointed superior court judge in King County is requesting a reporting modification that exempts him from disclosing his personal residential information for reasons of safety and security, as well as from disclosing business and governmental customers of Summit Law Group PLLC that paid \$10,000 or more during the previous twelve months.

Motion 14-055

Moved by Commissioner Turner, seconded by Commissioner Degginger 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 unanimously.

- Roger S. Rogoff, appointed King County Superior Court Judge. Requesting to not disclose his residential address.

Mr. Beatty, Filer Assistance Specialist, presented Roger S. Rogoff's request for reporting modification.

Mr. Beatty stated that Judge Rogoff who is a recently appointed superior court judge in King County is requesting a reporting modification that exempts him from disclosing his personal residence. Judge Rogoff stated that for safety and security concerns he's been advised not to disclose his personal residential address and he's taken all steps to block that information from appearing on any public website.

Motion 14-056

Moved by Commissioner Degginger, seconded by

Commissioner Turner 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 unanimously.

Renewal with Change

Kristianne Blake, University of Washington Regent

Mr. Beatty, Filer Assistance Specialist, presented Kristianne Blake's request for reporting modification.

Mr. Beatty stated that Ms. Blake is requesting a renewal for her reporting modification. The only change from her previous request is that she is no longer affiliated with Laird Norton Wealth Management.

Motion 14-057

Moved by Commissioner Degginger, seconded by Commissioner Turner 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 unanimously.

Renewal with No Change

- Karen Donahue, Seattle Municipal Court Judge
- Lewis Edelheit, Life Sciences Discovery Fund Trustee
- Michael J. Finkle, King County Superior Court Judge
- Steven Rosen, Seattle Municipal Court Judge
- David Wilson, School Director, Shoreline School Board
- Washington State Democratic

Mr. Beatty, Filer Assistance Specialist, presented renewal requests for reporting modification for Karen Donahue, Lewis Edelheit, Michael J. Finkle, Steven Rosen, David Wilson, Washington State Democratic Central Committee and Washington State Republican Party.

Central Committee

- Washington State Republican Party

Motion 14-058

Moved by Commissioner Degginger, seconded by Commissioner Turner that:

The Commission grant the partial reporting modifications 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 unanimously.

**Strategic Plan
Personal Financial Affairs (F-1)
Reporting**

Ms. Anderson provided a update on F-1 reporting issues that were discussed at last years' Commission Retreat. The strategic plan sets out three different action items related to discussions at the Commission Retreat. A workgroup has been assembled to review how business interests are reported or whether or not the dollar amounts on the F-1 should be adjusted. The workgroup has also reviewed the possibility of creating an abbreviated filing requirement for certain local officials. The group will be finalizing their work in the next few weeks. In the strategic plan there was a second action item that called for assembling interested stakeholders to discuss whether any or all of the information on the F-1 should be available online. We are waiting until after session to have the meeting so that we can have input from people involved with the legislature as well. Staff expects to have some recommendations at the May meeting for the Commission to consider.

Ms. Doyle added that one of the work group recommendations was to do a broader survey of F-1 filers and others around certain issues. That is something staff planned to undertake anyway. Ms. Doyle forwarded news articles to the Commission relating to the issue of online posting of personal financial affairs statement. There have been inquiries made from the legislature as to what it would cost the PDC to begin posting F-1's online.

Staff Reports

Ms. Doyle also provided an update on the compliance reference manual.

Ms. Doyle highlighted the monthly fiscal report which shows an accrual of savings in salary and benefits due to the vacancy of staff positions. Ms. Doyle believes the best use of this money would be for bringing in a consultant to look at IT strategic planning.

Chair Ranade asked about bonuses for employees noting that PDC staff is hard working and has taken several pay cuts.

Ms. Doyle stated it is unlikely we would be able to do that given state rules around payment of bonus compensation.

Commissioner Degginger asked about timelines for hiring a new CTO and how that might affect timing of an IT consultant's work. Commissioner Turner stated the lack of funding is very frustrating especially in light of the request for more transparency. We need to spend every penny available towards IT. Commissioner Asay stated it would be great to have an IT consultant's catalogue of recommendations coming in as a new IT Director, to help identify what this agency is lacking, looking forward to, and expecting. The Commission supports the idea of using accumulated savings to hire an IT consultant.

Ms. Doyle mentioned a retreat in August would have the best attendance as Commissioner Asay is not available in July.

Ms. Doyle also updated the Commission on the Sun Center comprised of campaign finance agencies around the country. That group has continued to meet periodically by telephone and now has a website. The group consists of Alaska, California, Idaho, Iowa, Maine, Maryland, Massachusetts, Montana, New York, New York City and Washington and serves as a clearing house to share existing laws and proposed legislation as well as enforcement matters that may be of interest to other jurisdictions.

Ms. Doyle acknowledged the work of staff who

have stepped up to assist with the recent vacancies. Although Mr. Smith couldn't be here today, Ms. Doyle wanted to acknowledge his 14 years of service to the PDC. Mr. Smith was the very first IT Director, very first IT staff person, and he built the IT team that we have here today which we are grateful for. Mr. Smith built the systems on a shoe string which he's done for a very long time. We owe Mr. Smith our respect and appreciation. Mr. Wendler, Mr. Zhao, and Mr. King have stepped up with a very short transition time to help transfer as much institutional knowledge as they could from Mr. Smith. Ms. Doyle also wanted to acknowledge Ms. Anderson and Ms. Hansen who have stepped up in Ms. Krier's absence. In addition, she thanked Ms. Greer, Ms. Hansen, and Mr. Ammons for stepping up during the absence of the Executive Assistant.

Executive Session/Working Lunch

The Commission went into Executive Session to discuss pending and potential litigation with counsel and returned at 1:01 p.m. Commissioner Degginger did not return to the meeting.

Enforcement

1. *Spokane School District No. 81 (Spokane Public Schools) Officials and Employees, Case No. 12-145, et seq.* involving alleged violations of RCW 42.17.130 (re-codified January 1, 2012, as RCW 42.17A.555) by using or authorizing the use of school district facilities, including email accounts, to promote school district ballot propositions in 2009 and 2012, and/or to assist the 2011 campaigns of candidates for school director. Individual Respondents who have stipulated to a violation are grouped by stipulated penalty amount, as follows:

Philip Stutzman provided background information of the enforcement matter involving a complaint against Spokane Public Schools and its officials and employees filed September 27, 2011, by Laurie Rogers. Her original complaint included 96 printed pages of allegations and evidence, a CD with 891 emails and other documents numbering approximately 1,250 pages. Ms. Rogers supplemented her complaint several times with additional voluminous information.

Michael Gawley, attorney, representing Spokane Education Association and 14 of the respondents was present.

Paul Clay, attorney, representing both Spokane Public Schools and 18 individuals, participated by telephone.

Chair Ranade recognized and thanked Tony Perkins for his hard work on this large investigation.

Group A (Stipulated violations and no penalty)

- *Sherri Bangs*, Case No. 14-021
- *Tammy Campbell*, Case No. 14-023
- *Staci Clary*, Case No. 14-024
- *Sharon Condrey*, Case No. 14-025
- *Edie Fletcher*, Case No. 14-028
- *Oweta Floyd*, Case No. 14-029
- *Marce Hagood (formerly Marce Leek)*, Case No. 14-031
- *Rhonda Jared*, Case No. 14-033
- *Shawn Jordan*, Case No. 14-035
- *Cindy McMahon*, Case No. 14-037
- *Brian Melody*, Case No. 14-038
- *Charlene Milota*, Case No. 14-040
- *William Nye*, Case No. 14-043
- *Alice Peterson*, Case No. 14-046
- *Nancy Stowell*, Case No. 14-049

Motion 14-059

Group B (Stipulated violations and \$250 penalty with \$200 suspended)

- *Steve Fisk*, Case No. 14-027
- *Michael McGinnis*, Case No. 14-036
- *Kevin Morrison*, Case No. 14-041
- *Beth Nye*, Case No. 14-042
- *Kevin Peterson*, Case No. 14-047
- *Sherri Thies*, Case No. 14-052

Tony Perkins presented 33 individual stipulations that staff believe accurately describe the nature of each violation, the relevant facts and an appropriate penalty or recommendation that no penalty be assessed. In Group A, Respondents made relatively minor use of Spokane Public Schools staff time, computers and network resources to plan campaign activity, sending e-mail communications on no more than two occasions per Respondent and most cases on a single occasion. The majority of these emails were personal communications to one recipient, and did not involve extensive coordination of campaign activity. All of these Respondents have no enforcement history with the PDC. Consistent with the Commission's authority in RCW 42.17A.755 to waive penalties for first-time violators, staff asks that the Commission accept these fifteen stipulations of facts and violations, and assess no penalty against the Respondents as jointly recommended by staff and the Respondents.

Chair Ranade asked if both attorneys reviewed the stipulations with their clients to ensure they understand the stipulations. Mr. Gawley and Mr. Clay indicated that is correct.

Moved by Commissioner Turner, seconded by Commissioner Asay that:

The Commission accept the stipulations of violations with no penalty as proposed for each of the Respondents in Group A.

The motion passed unanimously.

Mr. Perkins presented Group B which consists of six Respondents that used Spokane Public Schools staff time, computers, network resources, and/or internal mail systems to promote a ballot proposition or to assist a candidate's campaign. As with the first category, the prohibited uses were infrequent, however, they coordinated campaign activity among multiple individuals. Staff is asking that the Commission to accept these six stipulations of facts and violations, which also include stipulated penalties of \$250 with \$200 suspended pending no further violations by the

Respondents for four years.

Moved by Commissioner Turner, seconded by Commissioner Asay that:

Motion 14-060

The Commission accept the stipulation of facts, violations and penalties proposed in this case for each of the Respondent's in Group B, which includes a \$250 penalty with \$200 suspended.

The motion passed unanimously.

Group C (Stipulated violations and \$500 penalty with \$400 suspended)

- *Chuck Demarest*, Case No. 14-026
- *Dave Hughes*, Case No. 14-032
- *Deb Johnson*, Case No. 14-034
- *Mike Page*, Case No. 14-044
- *Carol Pederson*, Case No. 14-045
- *Marie Peterson-Holland (formerly Marie Holland)*, Case No. 14-048
- *Michael Syron*, Case No. 14-050
- *Mary Templeton*, Case No. 14-051

Mr. Perkins presented Group C which consists of eight respondents that used or authorized the use of Spokane Public Schools facilities including staff time, computers, network resources, official school events, and/or student instructional time to promote a ballot proposition or to assist a candidate's campaign. Compared to the prior group, the uses in this group occurred on more occasions or coordinated activity among a comparatively larger group of individuals. Staff requests the Commission accept these eight Stipulations of facts, violations, and penalty and assess a penalty of \$500 with \$400 suspended pending no further violations by the Respondents for four years.

Motion 14-061

Moved by Commissioner Turner, seconded by Commissioner Asay that:

The Commission accept the stipulation of facts, violations and penalties proposed in this case for each of the Respondent's in Group C which includes a \$500 penalty with \$400 suspended.

The motion passed unanimously.

Commissioner Turner commented the violations in this case are of a very serious nature and she believes the fines are very lenient. Anyone involved should have known better. Although she

Group D (Stipulated violations and \$500 penalty with \$300 suspended)

- *Mike Campbell*, Case No. 14-022
- *Paul Gannon*, Case No. 14-030
- *Michael Miller*, Case No. 14-039

Motion14-062

Group E (Stipulated violations and \$700 penalty with \$400 suspended)

- *Mark Anderson*, Case No. 12-145

believes the fines are very lenient, she is voting for them because it's time to move on, given how much hard work staff has done to solve this issue.

Mr. Perkins presented Group D which consists of three respondents that made repeated use of Spokane Public Schools staff time, computers, and network resources to organize or plan extensive campaign activity among large groups of agency employees. This included use of agency email to discuss campaign activity and plan campaign activity. The activity was planned in these emails and included circulation of endorsement sheets, the writing of postcards and letters to the editor, sign-waving, phone banking, and promoting attendance at candidate "meet and greet" events. Staff is asking that the Commission accept these three Stipulations of facts, violations, and penalty and assess a penalty of \$500 with \$300 suspended pending no further violations by the Respondents for four years.

Moved by Commissioner Turner, seconded by Commissioner Asay that:

The Commission accept the stipulation of facts, violations and penalties proposed in this case for each of the Respondent's in Group D which includes a \$500 penalty with \$300 suspended.

The motion passed unanimously.

Mr. Perkins presented Group E, which has one Respondent, Mark Anderson, the Associate Superintendent for School Support Services for Spokane Public Schools. Dr. Anderson's stipulated violations follow the pattern described above, but involved the most frequent uses of Spokane Public Schools facilities. Dr. Anderson used his paid staff time, district computer, and network resources to organize Citizens for Spokane Schools (CFSS) meetings, to forward invitations to attend CFSS events to district staff, and to forward campaign business to the CFSS committee's officers. Dr Anderson authorized CFSS officer to attend a January 27, 2011, budget forecast meeting for all Spokane Public Schools administrators, and to speak to the group about

activities of their committee. He used agency email facilities to press for the turnout of supportive voters in the March 10, 2009, levy and bond election. Dr. Anderson also used agency facilities to prepare a presentation discussing political campaign strategy, and to travel to a September 10, 2009, School Elections Conference where he made the presentation. Dr. Anderson has committed to providing additional training to prevent future violations by Spokane Public School staff and officials. Staff asks that the Commission accept his Stipulation of facts, violations, and penalty and assess a penalty of \$700 with \$400 suspended pending no further violations for four years.

Commissioner Turner asked how long Dr. Anderson has held his position. Tony Perkins replied that Dr. Anderson has held his position since 1998. Commissioner Turner stated she is not comfortable with the suspended amount and would be more comfortable with the full penalty due to the serious nature of the violations and his position within the organization.

Mr. Clay provided comments on behalf of Dr. Anderson prior to the Commission deliberating in closed session.

The Commission went into closed session at 1:31 p.m. to deliberate.

The Commission returned from closed session at 1:40 p.m.

Motion 14-063

Moved by Commissioner Turner, seconded by Commissioner Asay that:

The Commission accept the stipulation of facts and violation as proposed.

The motion passed unanimously.

Second Motion 14-064

Moved by Commissioner Turner, seconded by Commissioner Asay that:

The Commission modify the proposed penalty to \$1,000 with \$500 suspended.

The motion passed unanimously.

The Chair continued further consideration of the matter until Mr. Clay had an opportunity to consult with Dr. Anderson about whether to accept the Commission's modified penalty.

Other Action

- Recommended Dismissal of Additional Employees (Group F)

Mr. Perkins presented Group F which consists of five Respondents where facts discovered in the investigation lead staff to recommend that the Commission find no violation and dismiss the allegations against Ann Kaluza, Loris Stupel, Katey Treloar, Catherine Pearson, and Dawn Smith on the basis that the Respondents did not use public facilities in violation of RCW 42.17.130.

Motion 14-065

Moved by Commissioner Turner, seconded by Commissioner Asay that:

The Commission dismiss the allegations for each of the Respondents in Group F as proposed.

The motion passed unanimously.

Remaining Allegations

Mr. Perkins described the remaining allegations related to Spokane Public Schools Information Program, Spokane Public Schools Production of Payroll Reports for CFSS, Distribution of Candidate Endorsement Articles through "Kid Mail", and Failure by SEA to Disclose IE Advertisements Supporting Three Candidates. Mr. Perkins also presented staff's recommendation that the Commission dismiss these four allegations in the complaint on the basis that the alleged conduct did not amount to any material violations of RCW 42.17.130.

Motion 14-066

Moved by Commissioner Turner, seconded by Commissioner Asay that:

The Commission dismiss the four remaining allegations in the complaint on the basis that the alleged conduct did not amount to any material violations of RCW 42.17.130.

Adjourn

Meeting minutes approved April 24, 2014.

The motion passed unanimously.

Meeting adjourned at 2:03 p.m.