



**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.  
June 25, 2015

COMMISSION MEMBERS PRESENT

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

STAFF PRESENT

Fred Kiga, Interim Executive Director  
Tony Perkins, Acting Assistant Director  
Jennifer Hansen, Filer Assistance Specialist  
Lori Anderson, Communication and Training Officer  
Linda Dalton, Sr. Assistant Attorney General  
Jana Greer, Executive Assistant

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Grant Degginger at 9:31 a.m. in the Evergreen Plaza Building, Room 206 Olympia, Washington.

Opening Comments

Commissioner Degginger called the meeting to order.

Citizens Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

No comments or concerns were expressed.

Election of Commission Officers for 2016

**Motion 15-0057**

Moved by Commissioner Ranade, seconded by Commissioner Levinson that:

**The Commissioner Asay serve as Chair for the fiscal year 2016.**

The motion passed.

**Motion 15-0058**

Moved by Commissioner Ranade, seconded by Commissioners Asay and Bridges that:

**The Commissioner Levinson serve as Vice Chair for the fiscal year 2016.**

The motion passed.

Minutes

- Special meeting minutes May 22, 2015

**Motion 15-0059**

Commissioner Ranade abstained.

Moved by Commissioner Asay, seconded by

Commissioner Bridges that:

**The Commission adopt the special minutes of May 22, 2015.**

The motion passed.

### Minutes

- Regular meeting minutes May 28, 2015

### **Motion 15-0060**

Commissioner Ranade abstained.

Moved by Commissioner Asay, seconded by Commissioner Bridges that:

**The Commission adopt the regular minutes of May 28, 2015.**

The motion passed.

### Advisory Matter

Review Legislative Ethics Board's proposal to define travel for reporting

Lori Anderson discussed the Legislative Ethics Board's (LEB) proposal/recommendation to define travel for reporting purposes.

The Ethics Act applies to State Officers and State employees. The LEB was considering this recommendation at the June 19<sup>th</sup> meeting. PDC staff had concerns that they wanted to share with the LEB.

She reminded the Commission of the two provisions within the statute that PDC enforces and where the complimentary travel is disclosed; 1) personal financial affairs filers, and 2) by lobbyists.

Staff responded to the LEB proposal and shared that the Commission had not yet reviewed the proposal, but were confident that the Commission would not favor any reduction in the disclosure of travel. Main concern is that this would apply to legislative members and staff and not to others subject to the Ethics Act.

It is a concern that lobbyists would view this as an opportunity to ask the Commission for a similar exemption.

Kenny Pitman, Vice Chair of the LEB, was present and discussed the LEB status of the recommendation.

He asked the Commission for assistance with this matter. He focused on travel "tied-in with a tour," and gave an example of this type of travel for the Commission to consider.

Mr. Pitman stated that the concern in the House and

the Senate was does the flight (leg of tour) from point A to B constitute travel, and should the value be reported to the PDC? When should a member report travel expenses from a third party and what types of movement constitute reportable travel?

The LEB is attempting to provide legislators guidance on what is travel and what is a portion of a tour.

The Commission agreed that the travel (example: a flight) to a tour/meeting/briefing should be disclosed.

Mr. Pitman stated that the LEB will call an additional meeting of the sub-committee and include the PDC Commission concerns to ultimately provide an advisory opinion for Legislators.

Lori Anderson stated and confirmed that the Commission's position is that if the staff or the member can't get to the destination under their own power, then that constitutes travel that should be disclosed.

Commissioner Levinson stated that all elected officials should be treated the same way in regards to these obligations.

Ms. Anderson stated that if adopted, the recommendation would apply to recipients of travel. Lobbyist and employers are sometimes the "givers" of travel. This recommendation would have no impact on lobbyist and their employers, and the required disclosure.

Staff's concern is that lobbyists would approach the PDC and ask for a similar exception.

Jon David Wisenteiner participated via telephone.

Jennifer Hansen presented David Wisenteiner's request for a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during the previous 12 months to Horn Distributing Co., Inc. (Horn Distributing), a privately held, family owned real estate holding company located in New Mexico.

Staff recommended approval.

Moved by Commissioner Ranade, seconded by Commissioner Asay 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**

### **Reporting Modifications (New)**

- *Jon David Wisenteiner* – City Council Candidate, City of Mercer Island

### **Motion 15-0061**

**modification would not frustrate the purposes of the act.**

The motion passed.

- *Maud Daudon* – Member, Wa. St. Student Achievement Council

Jennifer Hansen presented Maud Daudon's request for a reporting modification that would exempt her from disclosing the business customers who paid \$12,000 or more during 2014 to Cascadia Consulting Group Inc., for whom her husband, Marc Daudon, is President/Principal and has a 45% ownership interest.

Ms. Daudon also requested a retroactive reporting modification that would exempt her from disclosing the business customers who paid \$12,000 or more during 2013 to Cascadia Consulting Group Inc.

Staff recommended approval.

**Motion 15-0062**

Moved by Commissioner Ranade, seconded by Commissioner Asay 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.

- *Jonathan Lisbin* – City Council Candidate, City of Seattle

Jennifer Hansen presented Johnathan Lisbin's request for a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during the previous 12 months to Point It!, Inc., a privately held online advertising agency located in the Seattle area.

Staff recommended approval.

Commissioner Levinson urged staff to work in conjunction with other agencies with overlapping jurisdiction, e.g. the City of Seattle, in order to streamline the process and provide improved customer service.

**Motion 15-0063**

Moved by Commissioner Ranade, seconded by Commissioner Asay 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.

**Reporting Modifications (Renewal)**

- *Dan Kristiansen* – St. Representative, 39th Leg. Dist.

Jennifer Hansen presented a request to renew a reporting modification with no changes for Dan Kristiansen.

Staff recommended approval.

**Motion 15-0064**

Moved by Commissioner Ranade, seconded by Commissioner Asay 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.

**Rulemaking**

Discussion and possible approval of draft proposed language for new and amended rules to provide alternatives to adjudicative proceedings for enforcing Chapter 42.17A RCW and Title 390 WAC.

Tony Perkins presented proposed draft rule amendments and a new rules for Commission review and possible approval.

- New Rule WAC 390-37-056 Alternative Responses to Non-Compliance - Goals and Objectives – Factors to be Considered.
- WAC 390-37-060 Enforcement procedures—Alternative Responses to Non-compliance—Investigation of complaints—Initiation of hearing (adjudicative proceeding).
- WAC 390-37-090 Informal settlement—Cases resolvable by stipulation prior to an enforcement hearing (adjudicative proceeding), or by other alternative dispute mechanisms.
- WAC 390-37-155 Electronic filing brief enforcement hearing penalty schedule.

All but one of the draft rules discussed concerned sections under Chapter 390-37 WAC, the Commission's enforcement hearing (adjudicative proceeding) rules. The remaining section, a proposed amendment to WAC 390-32-030, concerned a possible alternative response to non-compliance similar to the Fair Campaign Practices Code complaint publication process.

The Commission requested changes to the draft language for the amended WAC 390-37-060, WAC 390-32-030, and the new rule WAC 390-37-056, and directed staff to prepare the draft language, as modified by discussion today, for a hearing of the proposed Rules.

- WAC 390-37-160 Statement of financial affairs (F-1) penalty schedule.
- WAC 390-37-165 Candidate registration statement (C-1)/candidate statement of financial affairs (F-1) penalty schedule.
- WAC 390-37-170 Lobbyist monthly expense report (L-2) penalty schedule.
- WAC 390-37-175 Lobbyist employer report (L-3) penalty schedule.
- WAC 390-37-182 Penalty factors.
- WAC 390-32-030 Complaint Publication—Fair Campaign Practices Code—Alternative to Investigation or Adjudicative Proceeding.
- New Rule WAC 390-37-055 Alternatives to adjudicative proceedings in response to non-compliance.
- New Rule WAC 390-37-057 Notices of correction - Process.
- New Rule WAC 390-37-058 Deferred enforcement - Process.
- WAC 390-37-010 Enforcement procedures—General.
- WAC 390-37-050 Enforcement procedures—Respondent's notice of complaint.
- WAC 390-37-070 Enforcement procedures—Complaints dismissed by executive director
- WAC 390-37-103 Commission options following receipt of a staff report on alleged violations.
- WAC 390-37-140 Brief enforcement hearings (adjudicative proceedings)—Authority.
- WAC 390-37-142 Brief enforcement hearing (adjudicative proceeding)—Procedure.

**Motion 15-0065**

Moved by Commissioner Levinson, seconded by Commissioner Ranade that:

**The Commission approve the draft language for the rules set forth in the 6.25.15 meeting materials, as amended by today's discussion, to be incorporated into proposed new rules and set for a public hearing with the exception of WAC 390-37-030, which will be discussed at the July 2015 regular meeting discussion.**

The motion passed.

**Preliminary Rulemaking**

Tony Perkins reviewed WAC 390-05-210 Definition – Contribution and asked for the Commission's consideration of the guidance contained within the WAC and if it should be updated at this time.

Mr. Perkins stated that Staff believes the facts of the recent enforcement case teed up two questions for the Commission:

- Does the Commission wish to amend its rule to relieve a candidate or ballot measure campaign from accepting and reporting a contribution when political advertising is duplicated without coordination?
- Does the Commission wish to review its rules to determine if updates are necessary given how developing technology has impacted campaign activities, including how campaigns use the Internet?

The Commission asked staff to place this item on the PDC legislative agenda at this time for consideration.

**Legislative Report/Budget Update**

Fred Kiga reported on the status of the budget negotiations. Staff is preparing for a potential contingency. All notices to staff have been submitted and if there is not state budget July 1, 2015 the PDC office will be closed.

Mr. Kiga noted that staff has engaged at appropriate levels of discussion to help to determine what the appropriate level of funding for the PDC for the 2015/17 Biennium. The Legislature is weighing the options with respect to the future of the agency.

**Executive Director Recruitment**

Mr. Kiga updated the Commission on the Executive Director Recruitment. He stated that he had meet with Karras Consulting and that there are currently 15 candidates that have applied.

Mr. Kiga and Mr. Karras will meet and review the

resumes of all of the applicants. A packet with the applicants and the initial ranking will be prepared and distributed to the Commissioners.

Don Chavez from Department of Enterprise Services will take over the process at that point and interviews will be scheduled as needed.

Mr. Kiga noted that there are a number of individuals that Karras Consulting contacted who stated that the ED salary is too low for consideration. Mr. Kiga and Mr. Karras have reached out to the Governor's office to see where they were with respect to a reclassification of the Executive Director salary level.

**Petition for Declaratory Order from Recall Mark Lindquist Committee**

Tony Perkins stated that PDC staff received a letter dated June 9, 2015 from Jeffrey Paul Helsdon, counsel to the "Recall Mark Lindquist" political committee. In his letter, Mr. Helsdon inquired whether the PDC will enforce RCW 42.17A.405(3), concerning contribution limits and recall elections, against his client.

Staff is seeking direction from the Commission in this matter. Mr. Perkins stated that if the Commission determines that it will proceed with treating Mr. Helsdon's inquiry as a petition for a declaratory order, the immediate next step would be to inform the agency Stakeholder group of the petition. Staff would issue that notification on June 26, 2015.

Tom Oldfield, Attorney, Oldfield and Helston was present and addressed the Commission.

The Commission went into Executive Session at 11:20 p.m. to discuss pending and potential litigation with legal counsel.

The Commission returned to the meeting at 11:35 p.m.

Moved by Commissioner Ranade, seconded by Commissioner Levinson that:

**The Commission set a hearing on the petition for the next regular meeting, July 23, 2015, and direct counsel to engage with the Recall Mark Lindquist Committee's counsel to discuss the petition process for the hearing and if in those conversations some alternative process emerges for addressing this matter, we leave open the possibility for striking the hearing we are setting. If no alternative happens, then the hearing will remain as set.**

The motion passed.

**Motion 15-0066**

**Executive Session/Working Lunch**

The Commission went into Executive Session at 12:10 p.m. to discuss pending and potential litigation with legal counsel. Possible action regarding pending litigation following the executive session.

The Commission returned to the meeting at 12:40 p.m.

**Enforcement**

1. *Jacob Taylor*, Case No. 15-041 involving alleged violations of RCW 42.17A.555 by using facilities of the Grant County Auditor's Office to assist his 2014 campaign for Grant County Auditor.

Kurt Young presented PDC Case No. 15-041, Jacob Taylor, involving alleged violations by Jacob Taylor, an employee of the Grant County Auditor's Office and a 2014 candidate for Grant County Auditor, of using facilities of the Auditor's office to assist his 2014 campaign for Grant County Auditor: (1) by using his Grant County computer to access, edit, and store campaign-related documents, and (2) by using the Grant County email system to send campaign-related emails to his personal email account, and to other addresses outside his agency.

Mr. Young summarized the Stipulation as to Facts Violations and Penalty.

Staff recommended that the Commission accept the Stipulation as to Facts, Violations and Penalty in which Mr. Taylor 1) acknowledges that he violated RCW 42.17A.555, and 2) Mr. Taylor agrees to pay a \$1,000 Civil penalty of which \$500 is suspended on the following conditions: that no additional violations of RCW 42.17A within four years from the date of the final order, and he pay the unsuspended amount within 60 days.

Jacob Taylor participated via telephone.

**Motion 15-0067**

Moved by Commissioner Ranade, seconded by Commissioner Levinson that:

**The Commission accept the Stipulation as to Facts, Violations and Penalty as proposed.**

The motion passed.

2. *Gina Tveit*, Case No. 15-045 involving alleged violations of RCW 42.17A.235 and .240 by failing to timely report contributions and expenditures during her 2014 campaign for Stevens County District Court Judge.

Philip Stutzman stated that staff has been working on obtaining a Stipulation as to Facts, Violation and Penalty but were unable to complete it at this time.

Staff asked that this matter be continued by the Commission for one month, to the next regular meeting.

The Commission agreed. PDC Case No. 15-045 will be continued to the July 25, 2015 regular Commission

meeting.

## **Staff Reports**

### **Executive Director Report**

Fred Kiga reported on the status of determining effective uses for and purchases made with the year-end balance.

Mr. Kiga discussed the potential opportunity to use some of the year-end balance to address process improvement within the agency.

He noted that annual performance reviews will be implemented for all employees so that they are aware of their alignment with the agency.

Mr. Kiga noted that the State Auditor's office has postponed the audit for a year.

### **Chief Information Technology Officer**

James Gutholm highlighted the summary from his written report on implementing electronic signatures.

Mr. Kiga announced that the ITS4 position was filled and he is looking forward to the progress that IT will be making.

### **Assistant Director**

Tony Perkins reported on the complaints that he is assisting on. He has been reviewing the spending plan for next year and tying up loose ends with the current years allotments.

### **Director of Compliance**

Phil Stutzman reviewed case status reports.

### **Adjournment**

The meeting adjourned at 1:20 p.m.

**Approved by the Commission on July 23, 2015.**