

**State of Washington  
PUBLIC DISCLOSURE COMMISSION**

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**MINUTES – Regular Meeting**

9:30 a.m. | August 24, 2017

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

**Commission Members Present**

Anne Levinson, Chair; Jack Johnson, Vice-Chair; John Bridges, Member; Katrina Asay, Member; David Ammons, Member.

**Staff Present**

Peter Lavalley, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Kurt Young, Compliance Officer; James Gutholm, Chief Information Officer; Toni Lince, Customer Service Representative; Scott Douglas, Assistant Attorney General; Chad Standifer, Assistant Attorney General.

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The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Anne Levinson at 9:30 a.m.

**Public Comments | [PDC Meeting Video](#)**

Glen Morgan discussed his plans and approach for suggested changes to campaign finance laws. Mr. Morgan provided an outline of the approach he plans to take with the Legislature on potential campaign finance law reform. He said it is his hope to reduce the workload of the PDC and the Attorney General's Office (ATG), and increase compliance of the law.

**Meeting Minutes | [PDC Meeting Video](#)**

The Commission considered approval of the meeting minutes from July 27, 2017, regular commission meeting.

Commissioner Ammons requested a minor edit to the language of July 27, 2017, page 2, "next steps follow-up" section, to correct the spelling of Ms. Sandahl's name.

**Motion 17-042** Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

**The Commission approve the July 27, 2017, regular meeting minutes as discussed.**

The motion passed.

**Strategic Plan | [PDC Meeting Video](#)**

Executive Director Lavalley presented a high-level draft of the 2017- 2020 PDC strategic plan, asking the Commission for review and guidance. Staff will incorporate suggestions from this meeting.

The proposed agency mission statement is "promote confidence in the political process." Work toward that mission was divided into four buckets: empower the public to "follow the money" in politics; provide expert guidance to the regulated community; continue to build a better, more agile and more responsive organization, and attract and retain a talented work force.

The strategic plan is drafted with a three-year horizon, and will be a living document. The Executive team will work with the staff internally to develop measures of success that are specific and measurable with near-term and long-term goals.

Commission Members suggested some changes to wording and overall direction of some goals. Vice-Chair Johnson also pointed out that, while measurable goals are important and laudable, not every important goal can be reduced to quantitative measures.

**Next Steps/Follow-up:** The Executive staff will incorporate suggestions/changes, work with staff to develop action plans, and return to the commission with an updated 2017-2020 Strategic Plan in October.

### **Budget | [PDC Meeting Video](#)**

Executive Director Lavalley reviewed the status of the PDC budget proposal for 2017-2019 Biennium. Chad Johnson, PDC's DES small agency Senior Financial Consultant, participated in the discussion. Director Lavalley presented information that showed the growth in the number of complaints received since 2008, and the reduction in FTEs over a time period during which the agency has overseen more than \$1 billion in campaign contributions. He also showed how PDC budgets have risen and fallen over the years, and how AGO charges are driving an increase in Central Service expenses.

### Attorney General's Office Billing

The PDC will seek clarification from the Attorney General's office on how the agency is billed for different matters, particularly the 45-day citizen action letters. Upon Mr. Lavalley's request, the PDC has received for the first time a matter-by-matter breakdown of AGO billing. The Executive team has begun to review and will schedule a follow-up meeting with the AGO.

### Staffing, Workload, Key Priorities

Key staffing priorities were identified for the upcoming supplemental budget:

1. 2 additional IT staff positions (on a contract basis)
2. 1 additional compliance officer
3. 1 additional customer services/training position
4. 1 additional compliance coordinator

Commissioner Levinson noted that the PDC does not currently have a Director of Compliance. With its current two senior investigators, and two other compliance officers processing complaints, she does not see how the PDC can live up to its mission or strategic plan with regards to enforcement with the current staffing capacity.

She advocated for three investigators rather than one, and feels the same about IT positions. A critical part of the mission is the transparency and full disclosure, if the PDC applications don't allow for that and people can't get the information electronically, the PDC is not living up to that prong of its mission. Also, a General Counsel position could assist in reducing the Attorney General costs.

### **Rulemaking | [PDC Meeting Video](#)**

Deputy Director Sandahl requested consideration and approval from the Commission to proceed with rulemaking concerning WAC 390-32-030(2), making technical amendments correcting WAC citations therein. This can be done with expedited rulemaking once approved.

In addition, staff requested approval to: 1) adopt emergency rules that would relate to the recent changes in the Public Records Act, WAC 390-14-030; and 2) begin the rulemaking process that would add the penalty amounts for noncompliance with Treasury reporting requirements (T-1 reporting) to the penalty schedule, WAC 390-37-143.

**Motion 17-043**        Moved by Commissioner Johnson, seconded by Commissioner Ammons that:  
**The Commission approve the staff move forward with rulemaking process for WAC 390-32-030, WAC 390-14-030, and WAC 390-37-143 as proposed.**

The motion passed.

Staff will continue to review current rules and prioritize rules to present to the Commission once ready for consideration.

### **Executive Session/Working Lunch**

The Commission went into Executive Session at 12:00 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. Possible action regarding pending litigation, or other matters properly discussed during executive session, will be taken following executive session.

Public session reconvened at 12:47 p.m.

### **Legislative Agenda | [PDC Meeting Video](#)**

Executive Director Lavalley provided an overview of PDC's agency-request legislation that is pending from the last legislative session:

- HB1834 — Require accelerated disclosure for campaign contributions of \$10,000 or more whenever they occur during the year.
- HB1833 — Modernize personal financial disclosure (F-1 Reports).
- HB1835 — Update inflationary adjustments.

Mr. Lavalley provided an overview of past PDC legislative ideas and suggestions for Commission consideration.

Staff will continue to track PDC-request legislation as well as other legislation that relates to the PDC and provide status updates to the Commission.

### **Reporting Modification (New) | [PDC Meeting Video](#)**

Jennifer Hansen presented Amy Pivetta Hoffman's request for reporting modification.

Amy Pivetta Hoffman, School Director, Bethel School District 403, participated via conference call.

Ms. Pivetta Hoffman is requesting a reporting modification that would exempt her from listing the client(s) that made payments of \$12,000 or more to the law firm APH Law PLLC, during calendar year 2016.

Ms. Pivetta Hoffman stated that listing all the reportable clients would create a hardship due to the Rules of Professional Conduct that specifically requires attorneys to keep client information confidential. Ms. Pivetta Hoffman expressed concern that listing clients who made payments above the threshold would run afoul of her professional obligation under RPC 1.6 not to reveal information relating to the representation of a client. The Commission asked that Ms. Hoffman seek permission from her client to disclose for the prior reporting period and come back to the Commission for further review as needed.

AAG Scott Douglas noted that he and Mr. Lavallee obtained informal guidance from the Washington State Bar Association. Specifically, the Washington Bar did not adopt subsection 1.6(b)(6) of the ABA Model Rule, which permits disclosure of otherwise confidential information "to comply with other law." Hence the PDC disclosure requirement would presumably not trump an attorney's obligation to keep confidential such client information, absent a court order.

### **Enforcement Matter | [PDC Meeting Video](#)**

#### **Request for Reconsideration**

Kurt Young presented Sandra Shirley's request for reconsideration by the Commission of a final order entered in a Brief Adjudicative Proceeding (Brief Enforcement Hearing) held on January 20, 2017, in PDC Case 10082.

Sandra Shirley participated via conference call.

Mr. Young stated that while the timeframe to request either a review or reconsideration has expired, staff believed there are mitigating circumstances (including unforeseen health issues and problems with mail forwarding following a change of address) to warrant the Commission entertaining a motion to reconsider the Final Order in this instance. If the Commission decides to reconsider the case, staff recommended the Commission either suspend the entire \$250 penalty assessed or vacate the Order, since it does not appear Ms. Shirley received notice of the hearing.

If the Commission chooses either option, staff would further recommend that PDC staff contact AllianceOne and request that they consider waiving the fees that have accrued on the \$250 penalty against Ms. Shirley since the matter was referred to them for collection.

**Motion 17-044** Moved by Commissioner Ammons, seconded by Commissioner Asay that:

**The Commission vacate the order, assessing no penalty, and retract referral from AllianceOne.**

The motion passed.

### **Compliance and Enforcement Update | [PDC Meeting Video](#)**

Kurt Young provided an overview and status of complaints and cases for the period July 22, 2017, through August 24, 2017.

- 49 new complaints have been filed with the PDC, of which 15 are 45-Day Citizen Action complaints.
- 14 Complaint Return Letters After Initial Review (unfounded or frivolous or no evidence that a material violation may have occurred) were sent — WAC 390-37-060(1)(a).
- 1 Complaint Return Letter with Reminder (minor/technical filing issues with mitigating circumstances, no evidence that a material violation may have occurred) sent — WAC 390-37-060(1)(b).

- 5 Complaint Return Letters with Formal Written Warning After Initial Review or after Formal Investigation (minor/technical violations with mitigating circumstances, no evidence that a material violation may have occurred) sent — WAC 390-37-060(1)(b).
- 48 brief hearings were held for Annual Officials concerning their failure to file or failure to timely file a Personal Financial Affairs Statement (F-1 report for CY 2016), which was required to have been filed by April 17, 2017, disclosing personal financial activities for calendar year 2016.
- 25 brief hearings were held for 2017 Candidates concerning their failure to file or failure to timely file a Candidate Registration (C-1 report), an F-1 report, or both a C-1 and F-1, which were due to have been filed within two weeks of declaring candidacy, or not later than June 2, 2017.
- Enforcement Hearings Scheduled for September 28, 2017, Commission meeting. (For a hearing before the full Commission, the maximum penalty is \$10,000. WAC 390-37-060(3) & (4)). The penalty factors found in WAC 390-37-182 are considered. The Commission can also find apparent violations and refer the matter to the Attorney General (AG) for higher penalties.
  - Spokane for Honest Government (PDC Case 9059) was held over from the July 27, 2017, Hearing before the Full Commission.
  - Four Annual Officials who were initially part of the August 23, 2017, brief enforcement hearings will be scheduled for full enforcement hearings, since they were not in fact eligible for a brief hearing, based on WAC 390-37-143.

### **Communications and Outreach Report | [PDC Meeting Video](#)**

#### Process Improvement Highlight | F-1 Survey Results

Kim Bradford provided an overview of the F-1 survey questions and results. 5,300 F-1 filers were surveyed; 677 responded, a response rate of 13%. Most respondents were elected or appointed officials, which influenced the answers to some of the survey questions. Some takeaways from the survey were:

- The PDC loses some potential e-filers due to known problems with the F-1 application.
- Some filers appear to be unaware of the F-1 amended option and the autofill function on the electronic application.
- Filers need more control over their login credentials and/or on-demand help with recovering the information.
- Filers find email reminders helpful.
- More outreach could be done to point people to online resources such as the F-1 instruction manual as well as to explain the purpose behind financial disclosures.

### **Information Technology Report | [PDC Meeting Video](#)**

James Gutholm updated the Commission on the PDC InfoSearch project deliverables. The new feature that allows individuals to see the campaigns related to their voting district will be available on PDC website next week.

This is the time of year the PDC IT completes all the annual state certifications with the State Office of The Chief Information Officer. All PDC staff will receive a link to access online IT security awareness training as required.

Meeting adjourned at 2:10 p.m.

Minutes approved on September 28, 2017.