

**State of Washington
PUBLIC DISCLOSURE COMMISSION**

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MINUTES – Regular Meeting

9:30 a.m. | September 28, 2017

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

Commission Members Present

Anne Levinson, Chair; Katrina Asay, Member; David Ammons, Member.

Commission Members Not Present

Jack Johnson, Vice-Chair; John Bridges, Member.

Staff Present

Peter Lavalley, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Kurt Young, Compliance Officer; Fox Blackhorn-Delph, Compliance Coordinator; Micaiah Ragins, Compliance Coordinator; James Gutholm, Chief Information Officer; Jana Greer, Administrative Officer; Toni Lince, Customer Service Representative; Scott Douglas, Assistant Attorney General; Chad Standifer, Assistant Attorney General.

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 complimented the staff of the PDC on the job they perform, keeping up with an increasing caseload and other issues. He said he is looking at the potential reform of [RCW 42.17A](#). Mr. Morgan said if everyone is violating the campaign finance laws, then there is something wrong with the statute itself. One area in need of reform is the Citizen Action Notice process and the threshold used to trigger the process. The Attorney General's Office needs to raise their threshold substantially, to fulfill the goal of why the process was originally created. The current process has a huge impact on the Public Disclosure Commission.

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of the meeting minutes from the August 24, 2017, regular Commission meeting.

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

The Commission approve the August 24, 2017, regular meeting minutes.

The motion passed.

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

Christopher Costani, School Director Candidate, Lynden SD 504 | [WAC 390-28-100\(1\)\(e\)\(i\)](#)

Jennifer Hansen, Filer Assistance Specialist, presented Christopher Costani's request for a reporting modification that would exempt him from disclosing business customers that paid \$12,000 or more during the previous 12 months to Curt Maberry Farm, Inc.

Mr. Costani's spouse works in Human Resources of Curt Maberry Farm, Inc. with a 33% ownership interest, and he has no ownership interest in the company and is not involved in the day-to-day operations.

Staff recommended that the Commission approve the request for a reporting modification as presented.

Motion 17-045 Moved by Commissioner Ammons, seconded by Commissioner Asay that:

The Commission grant the partial reporting modification as requested, finding that literal application of the law 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.

Report to the Commission

Amy Pivetta Hoffman, School Director, Bethel SD 403 | [WAC 390-28-100\(1\)\(e\)\(i\)](#)

At the August 24 regular meeting, the Commission considered Amy Pivetta Hoffman's request for reporting modification. After review, the Commission asked Ms. Pivetta Hoffman if she could ask her client whether she could disclose the client's name.

Jennifer Hansen stated that Ms. Pivetta has reported that the client consented. She has amended her F-1 report to include the name of the client. Ms. Hansen noted that Ms. Pivetta Hoffman may be requesting this modification again next year.

Commissioner Ammons asked if the PDC staff had continued the conversation with the Bar Association regarding the model language used in this matter.

Executive Director Lavallee reported that at the last Commission meeting it was noted that the Bar Association is firmly of the belief that absent a court order, attorneys have this ethical obligation to their clients to keep billing information confidential.

Commissioner Ammons asked if the PDC should consider amending the WAC, making it clear that it is not an expectation.

PDC staff will continue to weigh options and have discussions on this issue.

Rules | [PDC Meeting Video](#)

Deputy Director Sandahl updated the Commission on current rulemaking:

- Removing filer forms out of rule.
A public hearing is scheduled for October 10 at 1:00 p.m. Stakeholders have been notified, and staff has received one comment to date. The comment, along with any other comments received, will be read into the record during the hearing.
- An emergency rule has been filed for the adoption of the fees associated with records requests.
- Expedited rulemaking is in process for incorrect cross-references contained in the WAC.

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

Kurt Young, Compliance Officer, provided an overview and status of complaints and cases for the period August 24, 2017, through September 27, 2017.

- 55 new complaints have been filed with the PDC, of which 42 are 45-Day Citizen Action complaints.
- 5 complaint return letters after initial review (unfounded or frivolous or no evidence that a material violation may have occurred) sent — [WAC 390-37-060\(1\)\(a\)](#).
- 3 complaint return letters with reminder (minor/technical filing issues with mitigating circumstances, no evidence that a material violation may have occurred) sent — [WAC 390-37-060\(1\)\(b\)](#).
- 1 complaint return letter 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.
- 4 respondents who were initially part of the August 23, 2017, annual officials' mandatory filer enforcement hearings were scheduled for enforcement hearings on September 28. These filers were not eligible for brief hearing based on [WAC 390-37-143](#).
- Enforcement hearing scheduled for October 26, 2017, Commission meeting:
 - Spokane for Honest Government (PDC Case 9059).

Information and Technology Update | [PDC Meeting Video](#)

James Gutholm, Chief Technology Officer, reported on the status of the InfoSearch project. The project is now four weeks out from completion.

Commissioner Ammons asked if a public rollout is planned for the launch — a show-and-tell, including the press corps.

PDC staff has planned, once the InfoSearch tool is ready, a demonstration that will include all stakeholders, Legislature, and press corps members.

PDC Communications has provided a sneak preview to some Capitol press corps members who offered suggestions and feedback. There is a growing understanding of what the tool can offer as well as some concerns about what tools/information would be going away.

Staff will have a launch demonstration and build in training sessions to demonstrate the tool and address any concerns.

Commissioner Ammons also asked that the Commission be given a demonstration of the tool and its functions. Staff will have a demonstration for the Commission at a future Commission meeting.

Enforcement | [PDC Meeting Video](#)

Kurt Young reviewed the F-1 filing requirement.

PDC Staff presented four cases that were initially part of the August 23, 2017, annual officials mandatory filer enforcement hearings. These four cases were not eligible for brief hearings based on [WAC 390-37-143](#).

Fox Blackhorn-Delph and Micaiah Ragins, Compliance Coordinators, presented the cases and staff recommendations to the Commission for review and consideration.

Lloyd Caton: PDC Case 22224

Lloyd Canton did not appear in-person or participate by phone in the hearing.

PDC staff alleged that Lloyd Caton, an incumbent School Director for the Tonasket School District violated [RCW 42.17A.700](#) by failing to file a Personal Financial Affairs Statement (F-1 report) due no later than April 17, 2017, disclosing financial information for calendar year 2016.

PDC Staff recommended the Commission find a violation of RCW 42.17A.700 by failing to file an F-1 report for calendar year 2016, and:

1. Assess \$1,000 civil penalty, which is payable within 30 days of the date of the Order;
2. In accordance with [RCW 42.17A.755\(4\)](#), require Lloyd Caton, to “cease and desist” from failing to file his required PDC reports; and to file the missing F-1 report for calendar year 2016 within 30 days of the date of the Order; and
3. Direct PDC Staff to contact legal counsel for the Tonasket School District to remind Lloyd Caton and other school directors about the F-1 filing requirement.

Commissioner Asay inquired whether staff had reached out to the jurisdiction to ensure that Mr. Caton was still serving, and Mr. Blackhorn indicated that he had reached out to verify that Mr. Caton was still serving as there had been a question about that in a prior case.

Chair Levinson asked about more fully utilizing legal counsel for the jurisdictions to help nudge their officials into compliance and asked whether staff had used that avenue. Mr. Blackhorn replied that while he had reached out to inquire whether Mr. Caton still served, he did not inquire further.

Motion 17-046

Moved by Commissioner Ammons, seconded by Commissioner Asay that:

The Commission adopt staff’s recommendation and assess a \$1,000 penalty; require Mr. Canton to “cease and desist” from failing to file his required PDC reports; to file the missing F-1 report for calendar year 2016 within 30 days of the date of the Order; reiterate to Mr. Caton that he remains obligated to pay the outstanding \$100 assessed in Case No. 16-009; and to have staff contact the School District’s legal counsel.

The motion passed.

Next steps/Follow-up: Compliance staff will issue the Order within 10 working days.

Monte St. Johns: PDC Case 22183

Monte St. Johns did not appear in-person or participate by phone in the hearing.

PDC staff alleged that Monte St. Johns, an incumbent School Director for the Dieringer School District violated [RCW 42.17A.700](#) by failing to file a Personal Financial Affairs Statement (F-1 report) due no later than April 17, 2017, disclosing financial information for calendar year 2016.

PDC Staff recommended the Commission find a violation of RCW 42.17A.700 by failing to file an F-1 report for calendar year 2016, and:

1. Assess \$1,000 civil penalty, which is payable within 30 days of the date of the Order;
2. In accordance with [RCW 42.17A.755\(4\)](#), require Monte Saint Johns, to “cease and desist” from failing to file his required PDC reports; and to file the missing F-1 report for calendar year 2016 within 30 days of the date of the Order; and
3. Direct PDC Staff to contact legal counsel for the Dieringer School District to remind Mr. Monte Saint Johns and other school directors about the F-1 filing requirement.

Motion 17-047

Moved by Commissioner Ammons, seconded by Commissioner Asay that:

The Commission adopt staff’s recommendation and assess a \$1,000 penalty; require Mr. St. Johns to “cease and desist” from failing to file his required PDC reports; and to file the missing F-1 report for calendar year 2016 within 30 days of the date of the Order; and to have staff contact the School District’s legal counsel.

The motion passed.

Next steps/Follow-up: Compliance staff will issue the Order within 10 working days.

Peter Swant: PDC Cases 18104 & 23275

Peter Swant did not appear in-person or participate by phone in the hearing.

PDC staff alleged that Peter Swant, an incumbent Port Commissioner for the Port of Walla Walla violated: (1) [RCW 42.17A.700](#) by failing to file a Personal Financial Affairs Statement (F-1 report) due no later than April 17, 2017, disclosing financial information for calendar year 2016; and (2) [RCW 42.17A.710](#) by failing to file an F-1 Supplement to his F-1 report disclosing his position in a non-profit entity.

PDC Staff recommended the Commission find that Peter Swant violated 42.17A.700 by failing to file an F-1 report for calendar year 2016, and RCW 42.17A.710(1)(g) for failing to disclose his officer status as President of the Board for the Big Blue Boosters Club on the F-1 Supplement, and:

1. Assess Mr. Swant a \$1,250 civil penalty, which is payable within 30 days of the date of the Order.;
2. In accordance with [RCW 42.17A.755\(4\)](#), require Mr. Swant to “cease and desist” from failing to file his required PDC reports; and to file the missing F-1 supplement for calendar year 2015; and

3. Direct PDC Staff to contact Port of Walla Walla legal counsel to remind Mr. Swant and other Port Commissioners about the F-1 filing requirement.

Chair Levinson clarified that there were discrepancies between the written material and Oral Presentation. Kurt Young indicated that he drafted the memorandum and failed to include the reference to .710(1)(g) and inadvertently listed the Dieringer School District. Chair Levinson suggested the Commission consider the oral recommendations as superseding the written ones.

Motion 17-048 Moved by Commissioner Ammons, seconded by Commissioner Asay that:

The Commission adopt staff's recommendation and assess a \$1,250 penalty; require Mr. Swant to "cease and desist" from failing to file his required PDC reports; and to file the missing F-1 supplement report for calendar year 2015 within 30 days of the date of the Order; and to have staff contact the Port District's legal counsel.

The motion passed.

Next steps/Follow-up: Compliance staff will issue the Order within 10 working days.

Danny Walling: PDC Case 22190

Danny Walling did not appear in person or participate by phone in the hearing.

PDC staff alleged that Danny Walling, an incumbent Fire Commissioner for Clark County Fire Protection District 10, violated [RCW 42.17A.700](#) by failing to file a Personal Financial Affairs Statement (F-1 report) due no later than April 17, 2017, disclosing financial information for calendar year 2016.

Staff recommended that the Commission find a violation of RCW 42.17A.700 regarding Mr. Walling for failing to file the F-1 report for calendar year 2016, and:

1. Assess Mr. Walling a \$1,000 civil penalty, which is payable within 30 days of the date of the Order;
2. In accordance with RCW 42.17A.755(4), require Mr. Walling to "cease and desist" from failing to file the required PDC reports; and to file the missing F-1 report for calendar 2016 within 30 days of the date of the Order; and
3. Direct PDC Staff to contact the Clark County Fire Protection District 10 legal counsel to remind Mr. Walling and other Fire Commissioners about the F-1 filing requirement.

Motion 17-049 Moved by Commissioner Ammons, seconded by Commissioner Asay that:

The Commission adopt staff's recommendation and assess a \$1,000 penalty; require Mr. Walling to "cease and desist" from failing to file his required PDC reports in accordance with RCW 42.17A.755(4); to file the missing F-1 report for calendar year 2016 within 30 days of the date of the Order; reiterate to Mr. Walling that he remains obligated to pay the outstanding \$300 assessed in Case No. 16-069 and \$500 assessed in Case No. 10089; and to have staff contact the Fire Protection District's legal counsel.

The motion passed.

Next steps/Follow-up: Compliance staff will issue the Order within 10 working days.

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

Kim Bradford reported that the customer service staff continue to receive requests for assistance that are more and more complex as the campaign cycle progresses. That is partly because of the increase in citizen complaints, which has a ripple effect throughout the agency. Often when a complaint against a person has been filed, the person will seek out assistance from staff to complete multiple outdated forms and ask for guidance.

The media inquiries have picked up in recent weeks, mostly calls about updates enforcement cases and how to find specific information. It is anticipated that the media calls will continue at a higher volume through the election period.

Director Lavalley added that the Seattle Times recently wrote about Transportation Choices Coalition's efforts to help pass the Sound Transit ballot measure. One point that was raised was how some of the PDC forms could be clarified. This is a great example why the proposed rule to take images of filer forms out of the WAC will be useful.

Ms. Bradford said the upcoming State Senate race may set a record in spending. To help facilitate comparisons, staff have been working to update the PDC web page that lists the costliest campaigns in the state.

Executive Director and Deputy Director Report | [PDC Meeting Video](#)

Executive Director Lavalley reported that executive team and staff will be reporting on the agency's strategic plan at the next Commission meeting. The process is going well. Each member of the executive team has taken one of the main areas identified and created teams across the agency to suggest ideas.

Staff members had a productive meeting with the office of the Secretary of State (SOS) to discuss the issue of what may be viewed as an advertisement on a petition for ballot measures.

Commission Chair Levinson asked staff to continue to work with SOS, collaboratively, on possible changes in statutes that reference "election day", in light of the mail-in ballot process and the resulting need for clarification.

PDC staff also spoke with the SOS staff about what type of data that office collects. PDC staff are exploring ways to utilize the data to improve some current internal processes.

Discussions continue with the Attorney General's office on the 45-day letter process. Also being discussed is the billing from the AGO in regard to 45-day complaints.

The PDC decision packages are being prepared to submit for the 2018 supplemental budget. The Commissioners discussed the importance of restoring capacity from past budget cuts, the need for more compliance staff, customer service staff and I.T. support to better serve the public.

Deputy Director Sandahl noted to-date, 543 cases have been opened this year; 343 of these cases are in active and open status and still need to have work completed. With current FTEs, the workload demand is very high and stressful, and the pace cannot be sustained.

Staff does not anticipate the amount of complaints being filed decreasing anytime soon. From January to September of this year, the PDC has had over a 232% increase in cases that have been opened.

Similarly, the PDC is proposing a decision package for a Filer Assistance Specialist to help with the increase in customer service workload. A request for a General Counsel position also has been submitted to assist PDC with all legal aspects of the agency's work.

The IT decision package proposal asks for funding to assist with specific projects and two temporary/project-term FTEs to assist with items such as updating PDC-specific applications.

The decision packages will be submitted to the Office of Financial Management on October 9. Staff will continue to provide updates to the Commission throughout the process.

Process Improvement | [PDC Meeting Video](#)

Fox Blackhorn-Delph reported on staff's approach to process improvement for group enforcement.

Compliance Coordinators generally spend 15-20 hours per month assessing and preparing cases for group enforcement hearings. With the steady increase of cases, the process is now at 30 hours per month and continually increasing.

Mr. Blackhorn reported on initial ideas to address the impact, and staff will continue to look at the current group enforcement process and determine what areas could be improved to assist with the increase of cases.

Executive Session/Working Lunch

The Commission went into Executive Session at 11:20 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.

Meeting adjourned at 12:20 p.m.

Approved October 26, 2017.