

State of Washington
PUBLIC DISCLOSURE COMMISSION
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MINUTES – Regular Meeting

9:30 a.m. | January 24, 2019
Evergreen Plaza Building, Room 206
711 Capitol Way
Olympia, Washington

Commission Members Present

Anne Levinson, Chair; David Ammons, Vice-Chair; Bill Downing, member; Russell Lehman, member.

Staff Present

Peter 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; Toni Lince, Customer Service Representative; Kurt Young, Compliance Officer; John Meader, Assistant Attorney General; and Chad Standifer, Assistant Attorney General.

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

Chair Levinson introduced and welcomed new Commission member Russell Lehman. | [PDC Meeting Video](#)

Public Comments | [PDC Meeting Video](#)

No comment was given.

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of the December 6, 2018, regular meeting minutes.

MOTION 19-01 Moved by Commissioner Ammons, seconded by Commissioner Downing that:
The Commission approve the December 6, 2018, regular meeting minutes as presented.

The motion passed 3-0, with Commissioner Lehman abstaining.

Budget Update | [PDC Meeting Video](#)

The Commission and staff discussed the PDC budget, transparency account status, and IT projects identified in the IT portfolio.

Chad Johnson, Senior Financial Consultant of Department of Enterprise Services provided an overview of materials that will be provided monthly to the Commission on the PDC budget and expenditures with information consisting of the budget process, financials, transparency account balance updates as well as a section that talks about the current budget request. The Attorney General's Office remains the biggest expenditure for the PDC with the State v.

Eyman and State v. Food Democracy Action matters representing a large portion of the expense. Staff discussed maintaining a detailed project list for budget request cycles as an efficient means of identifying where funds could be allocated to meet outstanding needs.

Active discussions with legislators continue about the transparency fund, to highlight the agency's outstanding projects. Commissioners continued to encourage DES and agency staff to discuss with OFM and legislators and report back to the Commission about ways to make the use of the transparency account nimbler, so that as resources become available between budget cycles, the agency can make more immediate use of them to address an agreed-to list of priority I.T. projects.

Penalties for both Facebook and Google were received last month, bringing the transparency account total to \$578,961.

IT Project status/priority

James Gutholm, Chief Information Officer, reviewed the website re-design project, explaining that it could be largely outsourced, thus allowing for other PDC IT projects to move forward concurrently.

Legislative Update | [PDC Meeting Video](#)

The Commission and staff discussed stakeholder input to-date and current agency-request legislation in the House and Senate. Staff elaborated on meetings and discussions they have held with legislators and staff, as well as other stakeholders, regarding issues such as the definition of presiding officer, addressing disclosure on reporting modifications for safety concerns, and F1 inflationary adjustments. The Commission asked staff to continue to provide clarity and proposed amendments to language as needed.

General Counsel Sean Flynn provided a brief outline of current bills that are relevant to the PDC's work. The Commission gave direction to staff to support SB 5221 (HB 1379), and to work with Senate staff on some possible refinements. The Commission also gave direction to staff to support SB 5309, regarding Ports. The Commission discussed SB 5388, the campaign-treasurer training bill, and its impacts on the agency. Deputy Director Barbara Sandahl noted that staff has provided suggestions to the bill sponsor and will continue to work with legislators, staff and other interested parties. The Commission directed staff to support the bill and propose any refinements as needed.

Next Steps/Follow-up: PDC staff will incorporate changes in the agency-request bill to: update the definition of presiding officer; address safety concerns in the F1 modification process; and F1 inflationary adjustments. Staff will also continue to monitor bills that may have an impact on the agency and to proceed with PDC support of SB 5221, SB 5388, and SB 5309.

Jan-June 2019 Rule and Interpretations Agendas | [PDC Meeting Video](#) First-half 2019 Rules Development Agenda and Schedule

Deputy Director Sandahl proposed the rules development agenda and schedule to the Commission for January 31st to July 31st 2019, for inclusion of permanent rulemaking for the

DISCLOSE Act of 2018 in title 390 WAC, to implement Chapter 1.11 laws of 2018 (SSB 5991), and noted that the other rule-makings that will be needed based on legislation passed during the session will be added once that legislation is adopted.

MOTION 19-02 Moved by Commissioner Ammons, seconded by Commissioner Downing that:

The Commission adopt the rules development agenda and schedule as presented for January through July of 2019.

The motion passed 4-0.

First-half 2019 Interpretations Development Agenda and Schedule

Deputy Director Sandahl proposed the interpretations agenda and schedule to the Commission for January 31st to July 31st, 2019 to consider the following interpretations for updating, following the adoption of the permanent rule for 3405 laws of 2018: the primary purpose test, online campaign activities, and surplus funds.

MOTION 19-03 Moved by Commissioner Downing, seconded by Commissioner Lehman that:

The Commission adopt the proposed interpretations development agenda and schedule for January through July of 2019.

The motion passed 4-0.

Interpretations | [PDC Meeting Video](#)

The Commission and staff discussed the Commission's consideration and possible adoption of interpretations 12-01, 00-02, and 14-01.

12-01 In-Kind Loans, Pledges, and Disclosure of Contributions on 21- and 7-Day Pre-Election Reports

General Counsel Flynn introduced interpretation 12-01 which has been retitled Distinguishing In-Kind Loans, Debts and Pledges. The interpretation was re-written to clarify the distinction between loans and expenditures and what is subject to contribution limits. No outside comments were received.

MOTION 19-04 Moved by Commissioner Ammons, seconded by Commissioner Downing that:

The Commission approve the interpretation 12-01 Distinguishing In-Kind Loans, and Pledges.

The motion passed 4-0.

00-02 Guidelines for Contributions Made Over the Internet, via 1-900 Telephone Numbers, and Using Other Technologies Such as Text Messages

General Counsel Flynn discussed interpretation 00-02, to include an update in keeping with technological advances, where the current version refers to the regulation of contributions through 900 numbers. Additional updates to terms and the practice of receiving contributions online and updating language were discussed. The Commission asked to clarify that 5 days refers to 5 business days and to use the same introductory language about updating interpretations for consistency across all interpretations.

MOTION 19-05 Moved by Commissioner Downing, seconded by Commissioner Ammons that:

The Commission approve the interpretation 00-02 Reporting Contributions Made and Received Through Electronic Technologies.

The motion passed 4-0.

Next Steps/Follow-up: PDC staff will make necessary adjustments to finalize 00-02 to include the addition of “business” when referring to days from receipt of funds, change “examine” to “re-examine,” and change “making” to “making or receiving” in reference to contributions online.

14-01 Campaign Loans

General Counsel Flynn noted that interpretation 14-01 Campaign Loans did not require changes to remain consistent with revisions to interpretation 12-01. Staff asked that the Commission grant additional time to accommodate further stakeholder outreach.

Next Steps/Follow-up: PDC staff will solicit stakeholder comments, make other adjustments as needed and add 14-01 to the February Commission meeting agenda.

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

Executive Director – Delegation of Authority Policy

Executive Director Peter Lavalley proposed changes made to the delegation of authority to the Commission and identified a few technical changes made such as updating dates in both the header and footer, updates based on rulemaking, and included initial hearing review/case status reviews as one of the delineated authorities of the Executive Director. The Commission suggested now that the agency has a General Counsel, that position can be added as well.

MOTION 19-06 Moved by Commissioner Ammons, seconded by Commissioner Downing that:

The Commission approve the Delegation of Authority policy as updated by the Executive Director.

The motion passed 4-0.

Next Steps/Follow-up: PDC staff will look at the possibility of adding General Counsel as a delegee to the policy in the future.

Executive Session

The Commission went in to 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. Any action regarding pending litigation, or other matters properly discussed during executive session, would be taken following the Executive Session.

The Commission meeting returned to open session at 1:10 p.m.

Management Team Updates – Continued | [PDC Meeting Video](#) **[Communications, Outreach and Filer Assistance Update](#)**

Communications and Outreach Director, Kim Bradford, reported on the work the Customer Service Team is doing, including new information being provided on the DISCLOSE Act and the PDC's implementation of it. Director Bradford also discussed the introduction of new C1IC and C8 reports to facilitate incidental committee reporting. Director Bradford also reported on 22,000 F1 documents that were sent for review for sensitive information, of which only 16 were flagged for containing possibly sensitive information. Those 16 are now in the process of being redacted and entered in the system.

Director Bradford highlighted Chip Beatty's new position as Training Program Administrator for the PDC, noting Mr. Beatty will also remain part of the Filer Assistance Team.

[IT Activity Report](#)

Chief Information Officer Gutholm reported on the status of current IT projects, including the replacement of the campaign finance registration system and the case tracking project. Mr. Gutholm reported that while there have been a few technical challenges, the team continues to work diligently and has developed a plan to finish the deliverables.

Mr. Gutholm presented the Commission with a strategic priorities spreadsheet that is organized by project, global priority for the agency, scale, and agency workload. The spreadsheet provides detailed information on all PDC IT projects, whether or not they can be outsourced, and provides a column with an estimated cost and timeframe. Mr. Gutholm provided the Commission with detailed examples of current projects in queue.

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

Executive Director Lavalley introduced the new case management report in the process improvement spotlight, highlighting its interactivity, providing Commissioners with quick access to more information on each case.

Compliance Officer Kurt Young demonstrated the new enforcement report for the Commission, which, in addition to URL links to the cases on the PDC website, also provides information such as ticket number, complainant, respondent, date created, status of the investigation and complaint description.

Mr. Young updated the Commission on the status of complaints and enforcement cases from November 28th, 2018 through January 14th, 2019 and asked that the Commission make any recommendations if needed.

Compliance Case Summary:

Total number of active cases as of January 18th, 2019: **357**

Total number of cases opened in the period covered by November 28th, 2018 through January 14th, 2019: **56**

Cases closed/resolved: **94**

Initial Hearings conducted in the timeframe and formalized initial investigations: **4**

With **2** additional hearings held 1/17/2019 (after the period otherwise covered by the report) also noted.

Next Steps/Follow-up: Staff will modify the report to the Commission so that it always includes all categories, including referrals to the AG, and if no cases are in a particular category that month, to document it with a zero, rather than not list the category, so that it will be clear that all complaint categorizations are being tracked and reported on at each Commission meeting.

The meeting Adjourned at 2:11 p.m.

SUMMARY OF ACTION ITEMS

- Legislation: PDC staff will incorporate changes to the agency-request bill: update the definition of presiding officer; address safety concerns in the F1 modification process; and F1 inflationary adjustments. Staff will also continue to monitor bills that may have an impact on the agency and to proceed with PDC support of SB 5221, SB 5388, and 5309.
- PDC Staff will make necessary adjustments to finalize Interpretation 00-02 to include the addition of “business” when referring to days from receipt of funds, change “examine” to “re-examine,” and change “making” to “making or receiving” in reference to contributions online.
- PDC staff will solicit stakeholder comments, make other adjustments as needed and add Interpretation 14-01 to the February agenda.
- PDC staff will look at the possibility of adding General Counsel as a delegee to the Delegation of Authority policy in the future.
- PDC staff will modify the report used to provide the Commission an update of the categorization and status of complaints at each meeting so that all categories are reflected.

Approved February 28, 2019