

State of Washington  
PUBLIC DISCLOSURE COMMISSION

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**MINUTES – Regular Meeting**

9:30 a.m. | May 24, 2018

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

**Commission Members Present**

Anne Levinson, Chair; Jack Johnson, Vice-Chair; David Ammons, member.

**Commissioner Participating by Telephone**

Bill Downing, member.

**Staff Present**

Peter Lavalley, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; Kurt Young, Compliance Officer; Jennifer Hansen, Filer Specialist; James Gutholm, Chief Technology Officer; Jana Greer, Administrative Officer; Toni Lince, Customer Service Representative; 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.

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

Conner Edwards commented on his written testimony that he submitted to the Commission regarding amending WAC 390. He explained that it is his belief that the PDC enforcement process is becoming a “big black hole” and unmanageable. Complaints submitted sit in the queue, sometimes for years, and there does not appear to be any real momentum on clearing the backlog.

He noted that the former Citizen Action process was a tool a person could use to resolve these matters. This method would go away with the emergency rulemaking that is now in process. The proposed amendments to WAC 390 do not appear to guarantee any momentum on these cases. Mr. Edwards said the requirements for an initial hearing should be increased, and a complaint should be adjudicated within 90 days or referred to the Attorney General.

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

The Commission considered approval of the April 26, 2018, regular meeting minutes.

**Motion 18-039** Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

**The Commission approve the April 26, 2018, regular meeting minutes as amended.**

The motion passed 4-0.

The Commission considered approval of the May 9, 2018, special meeting minutes.

**Motion 18-040** Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

**The Commission approve the May 9, 2018, special meeting minutes.**

The motion passed 4-0.

The Commission considered approval of the May 17, 2018, special meeting minutes.

**Motion 18-041** Moved by Commissioner Johnson, seconded by Commissioner Downing that:

**The Commission approve the May 17, 2018, special meeting minutes.**

The motion passed 4-0.

### **Modification Requests for F-1 Reports | [PDC Meeting Video](#)**

Jennifer Hansen, Filer Specialist, presented requests for reporting modifications.

All applicants declined to participate at the hearing.

The following individuals requested a new or a renewal of a reporting modification:

#### New Request

- Kevin Ranker – State Senator, 40<sup>th</sup> Legislative District ([WAC 390-28-100\(b\)](#))

Senator Ranker requested a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during 2017 to Global Mindset Strategies Group, a firm he owns and for which he serves as CEO. Global Mindset Strategies Group provides executive coaching services to senior managers, which the applicant asserted requires absolute confidentiality.

**Motion 18-042** Moved by Commissioner Johnson, seconded by Commissioner Ammons 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 4-0.

#### Renewal with Change

- Jenny A. Durkan – Mayor, City of Seattle ([WAC 390-28-100\(1\)\(e\)\(i\)](#))

Mayor Durkan requested a reporting modification that would exempt her from disclosing the business and governmental customers of Quinn Emanuel Urquhart & Sullivan, LLP, a law firm, where she was a partner. Upon approval of her request in June 2017, Ms. Durkan took an unpaid leave of absence until she officially separated from the firm on November 28, 2017. Ms. Durkan has provided a list of business and governmental customers that either she or one of the other attorneys in the Seattle office has done work for during the previous calendar year. Ms. Durkan has agreed to recuse herself if any matter comes before her as Mayor of Seattle involving her previous law firm.

Ms. Durkan did not request a renewal of the modification regarding her personal residence.

**Motion 18-043** Moved by Commissioner Johnson, seconded by Commissioner Downing that:

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**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 4-0.

#### **APA Petition to Amend [WAC 390-18-050](#) | [PDC Meeting Video](#)**

Executive Director Lavalley presented a petition for rulemaking submitted by Conner Edwards. Mr. Lavalley reviewed [WAC 390-12-255](#), Petitions for rulemaking, amendment or repeal—Form—Consideration—Disposition, and the process once a request has been received by the PDC pursuant to [RCW 34.05.330](#), Petition for adoption, amendment, repeal—Agency action—Appeal.

The Commission has approved emergency rulemaking to implement [ESHB 2938](#) and is set to move forward with a permanent rulemaking process.

Conner Edwards summarized his petition to amend WAC 390-18-050, noting two areas of concern he believes the emergency rule did not cover:

- Determining whether a person who is requesting to view campaign “books” may take notes and pictures.
- Defining what materials are required to be made available when a person requests information from an online platform such as Facebook.
  - Mr. Edwards believes it is important that the list of items to be disclosed be expanded, to address custom audience targeting, for example, and be available digitally.

Mr. Edwards urged adoption of the rule as the Commission moves forward with the process.

**Motion 18-044** Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

**The Commission initiate rule-making proceedings for the proposed rule changes by incorporating these suggestions into the stakeholder review process for the previously initiated rulemaking for [WAC 390-18-050](#), in accordance with [RCW 34.05.320](#).**

The motion passed 4-0.

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

Kurt Young, Compliance Officer, updated the Commission on compliance and enforcement as of May 22, 2018.

Total number of open cases as of May 22, 2018: **429**

Total number of cases closed April 23, 2018, through May 22, 2018: **31** matters were closed during the period.

Case summary for the current period:

- New complaints received, and cases opened April 23, 2018, through May 22, 2018: There have been **38 new complaints** filed with the PDC during this timeframe.
- Cases closed – no technical violation, minor filing error may have occurred ([WAC 390-37-060\(1\)\(a\)](#)):

- Cases closed – minor technical violation and/or minor filing error – Reminder letter issued ([WAC 390-37-060\(1\)\(a\)](#)): **12**
- Cases closed – technical violations with mitigating circumstances – Written warning letter issued – ([WAC 390-37-060\(1\)\(b\)](#)): **4**
- Cases resolved through statement of understanding (SOU) – Violation found ([WAC 390-37-143](#)): **1**

#### Status of Citizen Action Complaints filed prior to ESHB 2938

There are a significant number of existing complaints that have been filed as Citizen Actions, with some of these cases filed directly at the Attorney General's Office (AGO), and some filed both there as well as with the PDC. The PDC is in active discussions with the AGO to determine what the implementation of ESHB 2938 will mean to the existing complaints filed as Citizen Actions but still being reviewed by the AGO's Campaign Finance Unit.

Chair Levinson noted that the PDC has multiple goals regarding this process:

- Expediting cases already in the queue that could be resolved by alternative resolutions
- Aligning and integrating the approaches taken by the Attorney General's Office and the PDC

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

##### Budget

Executive Director Lavalley discussed the PDC expenditure report and AGO billings. A request for a breakdown of expenditures by category shows that charges related to the Eyman case is the top billing item.

##### Recurring calendar for the Commission

An updated calendar was distributed to add Commission review of the agency's request to the Legislature each year for appropriation from the new dedicated fund.

*Next steps/Follow-up:* Commissioner Ammons requested moving the Commission's review of the agency annual report earlier, to allow for the report to be used as an informational piece during legislative sessions. Communications and Outreach Director Bradford mentioned that it's helpful to include general election information each year even though the State's annual reports use a fiscal year approach, so the goal would be to be able to capture that and still have the report ready in time for the session.

##### Hiring and office space update

The first of new hires has started, including an Information Technology Specialist 6 and a temporary office staff member who moved to a Customer Service Specialist position. The Executive management team continues to actively recruit and interview for additional positions.

The PDC will continue to work with Department of Enterprise Services (DES) and Office of Financial Management (OFM) to seek additional space to lease and options to retrofit the existing space to accommodate all employees.

##### Rules Update

Deputy Director Sandahl will capture issues that the Commission discussed regarding matters to incorporate into the permanent rulemaking for ESHB 2938. She will send the itemized list to the Commission once completed.

The Commission will review and provide changes, suggestions and information to staff as well as what is key to communicate during outreach. The outreach information will be sent to Kim Bradford.

Director Bradford reviewed the rulemaking and outreach timeline for ESHB 2938.

#### Communications and Outreach Update

Staff have been receiving an increased number of requests for assistance now that campaign season is underway.

Another reminder was sent to F-1 and T-1 filers for those who have not filed. There are an estimated 500 F-1s and 19 T-1s outstanding. Both groups are at or above 90 percent compliance.

#### IT Update and Process Improvement

James Gutholm, Chief Technology Officer, introduced new PDC staff member David Metzler, ITS 6 Lead Developer and IT Architect.

Recruiting for an ITS5 position is underway. Once positions are filled then it can be determined how to best utilize the two project positions to meet the agency's IT priorities.

Mr. Gutholm updated the Commission on the status of current projects and changes.

The management team has begun to determine what IT projects are necessary to implement ESHB 2938 and the timeframe in which they will be completed.

#### Process Improvement

Mr. Gutholm discussed automating the existing declaration process.

#### **Executive Session**

The Commission went in to Executive Session at 11:30 a.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 returned to the open public meeting at 12:37 p.m.

Adjourned at 12:38 p.m.

Approved June 28, 2018.