

**State of Washington  
PUBLIC DISCLOSURE COMMISSION**

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**MINUTES – Regular Meeting**

Evergreen Plaza Building, Room 206  
711 Capitol Way  
Olympia, Washington

9:30 a.m.  
June 23, 2016

**COMMISSION MEMBERS PRESENT**

Katrina Asay, Chair  
Anne Levinson, Vice Chair  
John Bridges, Member  
Jack Johnson, Member

**STAFF PRESENT**

Evelyn Fielding Lopez, Executive Director  
Penny Allen, Assistant Attorney General  
Jana Greer, Executive Assistant  
James Gutholm, Chief Information Officer  
Lori Anderson, Communication and Training Officer  
Tony Perkins, Compliance Officer  
Kurt Young, Compliance Officer  
Chad Standifer, Assistant Attorney General

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

**Opening Comments**

Commissioner Asay 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 2016-2017 Officers**

Commissioner Asay asked for nominations for the 2016-2017 Public Disclosure Commission officers. The new officers elected will take office effective July 1, 2016.

Commissioner Johnson nominated Anne Levinson for Chair and John Bridges for Vice Chair of the Commission.

**Motion 16-32**

Moved by Commissioner Johnson, seconded by Commissioner Asay that:

**Anne Levinson serves as Commission Chair and John Bridges serves as Commission Vice Chair for 2016-2017.**

The motion passed.

**Meeting Minutes**

Commissioner Asay asked that the meeting minutes presented be considered in totality for approval.

**April 28, 2016 Special Meeting**

Moved by Commissioner Levinson, seconded by Commissioner Bridges that:

**May 25, 2016 Special Meeting**

**The Commission approve the April 28, 2016 special meeting, May 25, 2016 special meeting, and May 26, 2016 regular meeting minutes as presented.**

**May 26, 2016 Regular Meeting**

The motion passed.

**Minutes Format Discussion**

As a follow up from the May 26 regular meeting Director Lopez asked for feedback on the new format used for the Commission meeting minutes.

Ms. Lopez noted that if it is determined that there is a

need for greater detail in the meeting minutes, the staff may need to look into different ways to incorporate an audio link next to key items to allow a person interested in the particular item an opportunity to listen to the audio. The concern is finding a balance between staff hours devoted to developing meeting minutes as compared with other duties.

Commissioner Levinson found the new format helpful. Commissioners Johnson and Bridges both noted that there is a lot of information captured in this format and agree that there needs to be a balance of how it is managed.

## Discussion

### **Use of Campaign Funds for Post-Election Expenses**

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Tony Perkins presented information on the use of campaign funds for post-election expenses, focusing on the nature of allowable expenses by a candidate, the active campaign fund account, and what surplus funds can and cannot be used for.

Mr. Perkins reviewed the personal use prohibition in RCW 42.17A.445 and the standards set forth in WAC 390-16-238 on use of campaign contributions. He asked if the Commission wanted to formalize a policy statement from 2012 indicating that it is not prohibited personal use for a candidate to use campaign funds for a recount or recount related litigation.

In addition, Mr. Perkins highlighted an area of potential rulemaking. The Commission's current rule implementing the prohibition on personal use of campaign contributions has language that relates specifically to candidates, and does not cover other campaign entities such as ballot initiative committees. If the Commission were to engage in rulemaking this would be an opportunity to address any campaign-related litigation, and more detail on post-election expenses.

Commissioner Levinson supported engaging in rulemaking and obtaining input from the regulated community. Commissioner Asay concurred.

Commissioner Levinson suggested looking at the array of activities that have some possibilities of litigation attached. There are intertwining issues, and if we are focused on how to maximize disclosure and make sure contribution limits are obeyed, it would be helpful to look at the range of uses that are in place and determine if they work for the types of litigation and other activities that campaigns engage in.

Staff will draft information focusing on suggested areas of possible rulemaking for the Commission to review, and will assist in identifying rules that could be amended, or

the need for new rules.

Overall the intent would be to develop a comprehensive overview that would guide individuals on what contributions are reported, what is limited, and what campaign funds may be used for what activities. This would be a holistic view with the understanding that other areas of regulation may also need to be addressed.

Next Steps/Follow up

- Staff will draft options for rule making and general information to use in outreach.
- Staff will begin outreach to obtain input from regulated community.
- Staff will provide information and suggestions regarding areas of possible rulemaking for the Commission to review and discuss.

**Reporting Modification**

**Robert I. Butler – School Director,  
Granite Falls School District 332**

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Jennifer Hansen presented Robert Butler's request for a reporting modification.

Mr. Butler requested a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during calendar year 2015, to Anytime Labor, LLC (dba LaborMax Staffing). He is an owner/operator of LaborMax Staffing with a 1% ownership and his spouse, Mindy Butler, has a 29% ownership interest.

Staff recommended approval of the requested reporting modification.

**Motion 16-33**

Moved by Commissioner Bridges, seconded by Commissioner Johnson 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.

Lori Anderson presented the rules development agenda for July through December 2016 for Commission review and discussion. This list, which will be filed with the Code Reviser in July, is a road map that alerts the public to what the Commission will be working on over the next six months.

Rulemaking items suggested:

- Establish reporting deadlines for surplus funds accounts. Staff believes that it is within the Commission's rulemaking authority to establish

**Rule Planning**

**Review July – December Rules  
Development Agenda**

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reporting timeframes for surplus funds accounts.

- Allow an initial personal finance statement (F-1) required to be filed in December to satisfy both the initial filing requirement and the next year's annual filing requirement.
- Presume certain reports are timely filed if received within a certain number of days of the filing deadline.

Ms. Anderson also suggested that the Commission consider looking at the penalty guidelines to decide if there are other areas where these guidelines or standard penalty amounts should be adopted.

She noted that Director Lopez had suggested that the Commission may want to also look at the political advertising rule and if the way a candidate holds an office is described accurately in advertising (implied incumbency).

Staff suggested including examples in the rules to better explain how to disclose independent expenditures and electioneering communications.

Commissioner Levinson identified some of the other items on the Commission's list for rulemaking consideration that are part of the strategic planning work the Commission has done:

- Allow a request for a reporting modification to cover the term of office, or for several years, rather than requiring an annual request. If this is not possible to address by rule, then this could be an item for the list of possible statutory changes.

Ms. Anderson noted that the statute allows the Commission to grant a modification for one reporting period, and that has been interpreted as one F1 covering one reporting period (a year).

Commissioner Asay noted that if there was an easier way to submit a new request for modification when nothing has changed from the last modification request, that would be a help as well. Ms. Anderson explained that there has been a change to the on-line help section of the website so that you can more easily request a modification. Also, for those who have received a modification in the past, they can go to the website, and select "request a modification to my filing requirements." If the person has a prior modification, and there have not been any significant changes, they don't need to fill out a new form, but can resubmit the

request on file.

- Whether an initiative petition constitutes political advertising.
- When PACs need to report; when they start to support or oppose a ballot measure, and adding some clarity about the timing.
- The use of public facilities to promote ballot measures for local governments. Whether doing surveys for ballot measures or otherwise communicating with groups who will be voting on ballot measures.

Commissioner Levinson suggested the rule making and legislative priorities be considered comprehensively. Director Lopez anticipates having a work session in July to determine what the Commission would like to do legislatively. This will be a good time to go through the both the rule making and legislative suggestions and prioritize the items.

Commissioner Levinson noted also that with regard to rule making we will want to keep in mind the election schedule and when changes can be made so that campaigns are not impacted in the heat of battle. Ms. Anderson noted that the Commission is limited on timing of the effective date of new rules or changes that would impact on campaigns—those rules could not become effective during the June through November period. Commissioner Levinson also noted that the Commission wanted to be thoughtful about the regulated community and when they would be able to effectively give feedback and participate in rule discussions.

Next Steps/Follow up

- Staff will bring back a list of possible statutory and rules changes for the July meeting for Commission to discuss and prioritize.

## **Staff Reports**

### **Executive Director**

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Director Lopez presented a revised Executive Director delegation of authority for the Commission's consideration and approval.

The Commission made minor adjustments and clarifications.

### **Motion 16-34**

Moved by Commissioner Johnson seconded by Commissioner Bridges that:

**The Commission adopt the delegation of authority contingent on the changes as discussed. The final document will be signed by the Commission Chair.**

The motion passed.

Director Lopez reported on the status of follow-up items. The letter response to the Legislatures regarding the Freedom Foundation is underway and will be complete this week and sent.

PDC has been invited to present at the Senate Government Operations and Security Committee on Wednesday June 29. Ms. Lopez and Commission Chair Asay will present and discuss the PDC complaint backlog, and how campaign contributions transferred from one campaign account to another can be clearly identified. The Commission has also been asked to discuss campaign surplus funds accounts.

Director Lopez reported on the status of compliance cases:

2012 - There are no longer any cases to process.

2013 – 3 cases left to process

2014 – 2 cases left to process

2015 – 5 cases left to process

All are moving through the process and staff should be able to determine within the next month which, if any, will go to hearing.

Staff continues to make good progress on all 2016 matters. Staff received a large amount of complaints in June and anticipates having some resolved by the end of this month. There are also active 45-Day Citizen Action complaints that are being reviewed.

James Gutholm reported all of the I.T. staff's energy has been devoted to getting the lobbyist application launched. The launch is a week away. An announcement will go out to electronic filers and stakeholders.

Lori Anderson shared that the Customer Service team is totally ensconced at this point in the 2016 elections, answering questions and helping customers.

The Commission went into executive session at 11:10 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, and review of performance of public employees.

The Commission returned to open session at 12:00 p.m. Commissioner Asay called the proceeding to order.

Chad Standifer, Assistant Attorney General, represented PDC Staff.

Kevin Hulten, the Respondent, represented himself, and participated via conference call.

Both parties provided opening statements, called

## **Chief Technology Officer**

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## **Customer Service**

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## **Executive Session**

## **Enforcement**

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Continued video

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**PDC Case 13-031/ Kevin Hulten** an

Executive Analyst in the Snohomish County Executive's Office in 2011 and 2012, violated: (1) RCW 42.17.130 by using his Snohomish County laptop and desktop computers, telephone, telephone number, email address and work time for the purpose of assisting Aaron Reardon's 2011 re-election campaign by compiling information and conducting opposition research of Mike Hope for Snohomish County Executive in 2011; and (2) RCW 42.17A.555 by using his Snohomish County laptop and desktop computers, telephone, telephone number, email address and work time for the purpose of assisting John "Jack" Connelly's 2012 election campaign for State Senator in the 27th Legislative District by compiling information and conducting opposition research of Washington State Senator Jeannie Darneille in May of 2012.

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witnesses, and presented closing arguments for the Commission's consideration.

The Commission went into a closed session to deliberate at 5:04 pm and returned to the preceding at 5:29 pm.

Moved by Commissioner Bridges seconded by Commissioner Johnson that:

**The Commission, with regard to PDC case No. 13-031, find the respondent in violation of RCW 42.17.130 and RCW 42.17A.555 by using County facilities including equipment and work hours for campaign related activity, and the Commission assess a penalty against Mr. Hulten in the amount of \$2500.00.**

The motion passed.

- A final order will be sent to the respondent.

The meeting adjourned at 5:32 p.m.

July 28, 2016

*Next Steps/Follow up*

**Adjourn  
Approved**