

State of Washington
PUBLIC DISCLOSURE COMMISSION

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MINUTES – Regular Meeting

9:30 a.m. | December 7, 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; 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

Glen Morgan provided written comments and shared his concerns about what he considered to be a threat to the Commission and its reason for existence, an effort to take political committees that have been found in violation of the Public Disclosure Act and dissolve them to avoid any further action or need for compliance.

Mr. Morgan provided three examples of committees that have done this. He believes this is fraudulent conveyance and that, if this were continued to be allowed, then there would be no reason to file at all with the PDC. He said this appears to be a strategy being pushed by the Washington State Democratic Party.

Mr. Morgan asked that the Commission consider making a general statement on where it stands on this topic.

Andrew Saturn

Andrew Saturn commented on Mr. Morgan's concerns and stated that he agreed with the concern. He does not think it is right that a political organization would be found in violation and then be advised by the State Party to dissolve and transfer all assets.

In addition, Mr. Saturn has a similar concern with Senate Bill 5991, which creates an incidental committee that, he believes, would be exempt from all campaign finance reporting since the reporting limits are so high, creating a giant loophole allowing any size committee to call itself an incidental committee. These committees would have no transparency.

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of the meeting minutes from the October 26, 2017, regular and special Commission meetings. Commissioner Ammons recommended that in two places in the regular meeting minutes “incumbent” be replaced with “former” or otherwise use past tense to indicate incumbency at the time of the alleged violations. He also suggested the summary of Staff’s Counsel’s remarks be corrected from “no more than \$5,000” to “no less than \$5,000”.

Motion 17-066 Moved by Commissioner Ammons, seconded by Commissioner Asay that:
The Commission approve the suggested amendments to the October 26, 2017, regular meeting minutes.

The motion passed.

Motion 17-067 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:
The Commission ratify the October 26, 2017 regular and special meeting minutes as amended.

The motion passed.

Follow up/Next Steps: Jana Greer, Administrative Officer, will correct meeting minutes as discussed.

2018 Proposed Commission Meeting Dates | [PDC Meeting Video](#)

The Commission reviewed the 2018 proposed regular meeting dates:

Thursday, January 25	Thursday, July 26
Tuesday, February 27 (Tues. mtg.)	Thursday, August 23
Thursday, March 22	Thursday, September 27
Thursday, April 26	Thursday, October 25
Thursday, May 24	Thursday, December 6 (Nov./Dec. mtg)
Thursday, June 28	

Motion 17-068 Moved by Commissioner Ammons, seconded by Commissioner Johnson that:
The Commission approve the 2018 regular meeting schedule as submitted.

The motion passed.

Follow up/Next Steps: Jana Greer, Administrative Officer, will file the 2018 meeting dates with the office of the Code Reviser for publishing.

The 2018 meeting dates will be added to the PDC website.

Rules | [PDC Meeting Video](#)

Deputy Director BG Sandahl presented for consideration and possible adoption:

2018 Rulemaking agenda (January-June)

- Amendments to WAC 390-05-400 – Changes in dollar amounts
- New WAC provision – Public inspection of books of account

Ms. Sandahl noted that the upcoming legislative session could prompt a need to add additional items to the rulemaking agenda.

Also, as rulemaking items are completed, staff can add items to the rulemaking agenda throughout the year.

Staff requested the Commission adopt the rules development agenda for submission to the Washington State Register for January-June 2018.

Chair Levinson noted that there are several other pending rulemakings with which the Commission would like to move forward. Commissioner Ammons asked about staff capacity to do more of them, given that the dollar amounts rulemaking is relatively pro forma. Ms. Sandahl indicated that the legislative session work might limit her ability to initiate other rulemaking priorities on the list. Chair Levinson asked that rather than consider this the agenda until June, staff provide an update of the 2018 rulemaking agenda at the March 2018 regular Commission meeting, when there will be additional information about any impacts from the session.

Communications and Outreach Director Kim Bradford discussed staff efforts to determine the parameters of commercial advertiser requirements in an evolving social media landscape, and that this might be something to address in the public inspection of books rulemaking. The Seattle Ethics & Elections Commission is tackling a similar issue involving the purchase of social media space from Facebook and Google. Staff will incorporate this into their overall review of social media and other online campaigning and update online guidance accordingly.

Chair Levinson asked that in the description of the rulemaking regarding public inspection of books, staff include these social media-related issues.

Commissioner Johnson asked if there are any other agencies in other states that have already conducted rulemaking regarding these issues.

Executive Director Lavalley noted that he recently attended the 2017 Council on Governmental Ethics Laws (COGEL) conference, where he met with peers from most states and attended panels on this subject.

There are many states struggling with similar issues. His sense is that there are not others we can use example language from at this point, both because laws differ by jurisdiction and because other states are also currently still developing their approaches to these issues.

Ms. Bradford noted that the Federal Elections Commission (FEC) has a rulemaking underway on this topic, and PDC staff will keep up to date on federal law developments.

PDC staff plans to have guidance in place for the 2018 election cycle.

Motion 17-069 Moved by Commissioner Ammons, seconded by Commissioner Asay that:

The Commission adopt the January-June 2018 Rulemaking agenda.

The motion passed.

Follow up/Next Steps: Deputy Director Sandahl will present an updated 2018 Rulemaking agenda, highlighting any additional/upcoming rules for consideration, at the March 2018 regular Commission meeting. Staff will include social media in the public inspections of books rulemaking.

Sequential Public Records Act emergency rule

Ms. Sandahl noted that the Commission passed an emergency rule at the August 24, 2017, regular meeting. This rule would implement the changes made effective July 23, 2017, to the Public Records

Act, relating to fees state agencies can charge for records requests. The PDC will follow the published schedule.

Permanent rulemaking is underway and a public hearing is scheduled for December 27, 2017. Staff recommended the Commission adopt the emergency rule amendments to [WAC 390.14.030](#) as presented.

Motion 17-070 Moved by Commissioner Ammons, seconded by Commissioner Asay that:

The Commission adopt the emergency rule amendments to [WAC 390.14.030](#).

The motion passed.

Expedited rules amendment for [WAC 390-32-030](#) to correct inaccurate cross-citation

Director Sandahl presented the proposed rule amendments as a continuation of expedited rulemaking.

The proposed amendments make technical corrections to WAC 390-32-030, updating the WAC references therein to the current cross-citation.

The change has no material effect on the WAC.

Staff requested that the Commission approve the amendments as proposed. If approved, the amendments will be effective on January 23, 2018, unless an objection is timely filed.

Motion 17-071 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission approve the amendments as proposed.

The motion passed.

Enforcement | Requests for Reconsideration | [PDC Meeting Video](#)

Kimberly Allen: PDC Case 22200 | [PDC Meeting Video](#)

Kimberly Allen, a former incumbent City Council member, participated via telephone.

Fox Blackhorn-Delph, Compliance Coordinator, presented Ms. Allen's request for reconsideration of the \$250 penalty assessed and final order issued September 5, 2017, in PDC case 22200 for failing to file an F-1 after she had retired from her City Council position.

Mr. Blackhorn stated that during the five-year period preceding the hearing notice mailed on July 19, 2017, Ms. Allen had consistently filed the F-1 timely.

The Initial Order was entered September 5, 2017, but not properly served until October 26, 2017.

The hearing notice and Order were sent to an incorrect address that was provided by the City of Redmond. While the hearing notice was not returned to the PDC by the postal service, the Order was.

On October 26, 2017, PDC Staff successfully served the Order by mail to the address listed by Ms. Allen on an F-1 report filed April 1, 2016.

Staff recommended that the Commission waive the \$250 penalty assessed, on the basis that Ms. Allen did not appear to have been properly served with the hearing notice for the August 23, 2017, Brief Enforcement Hearing.

Staff noted that Ms. Allen has now filed the missing F-1 report.

Ms. Allen asked the Commission to consider vacating the order in its entirety and eliminate the penalty. The Commission informed her that it was not possible to do this. However, if she runs for office in the future she could point to the fact that the Commission had vacated the penalty and dismissed the order.

The Commission discussed the lack of due and proper notice to the Respondent, Respondent's cooperation with PDC Staff and prompt filing of Form F-1 upon learning of the deficiency, and Respondent's timely compliance with all other filing requirements during her tenure in office. The Commission also noted that the requirement to file a final report for the prior year once an elected official leaves office is not well understood by filers.

Motion 17-072 Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

The Commission grant reconsideration of the matter of PDC case 22200, and vacate the initial Order and original penalty assessed.

The motion passed.

David Tellessen: PDC Case 22774 | [PDC Meeting Video](#)

David Tellessen, a former candidate for Fire Commissioner of the Pend Oreille Fire Protection District 04, did not participate in the hearing

Micaiah Ragins, Compliance Coordinator, presented Mr. Tellessen's request for reconsideration of the \$250 penalty assessed and final order issued September 5, 2017, in PDC case 22774.

Mr. Ragins stated that on July 5, 2017, the PDC Staff mailed a warning letter concerning a missing F-1 report to the address provided by the Pend Oreille County elections office. Neither that letter nor an August 2, 2017, hearing notice was returned to the PDC by the postal service.

On September 5, 2017, PDC Staff mailed the Initial Order in the case to the same address. The Order was also not returned as undeliverable. On September 26, 2017, however, the Department of Enterprise Services notified the PDC that an invoice mailed to Mr. Tellessen had been returned as undeliverable.

PDC staff attempted to re-send the items to an address for Mr. Tellessen found through an online search.

On October 23, 2017, PDC Staff received contact from David Tellessen by phone and were informed that he had not received the Initial Order because the document had been mailed to his parents' residence. Mr. Tellessen explained that the address that he used to register as a candidate was his physical residence, since the declaration of candidacy form had a section for "residential" address, but not "mailing" address.

On October 24, 2017, PDC Staff mailed the Initial Order for a third attempt. Mr. Tellessen received the Order, and on October 25, 2017, PDC Staff received a written request for review of the Initial Order from Mr. Tellessen, on the basis that he was unaware that the PDC had been attempting to contact him due to the mailing address discrepancy. He worked with PDC staff to resolve the noncompliance when he discovered the violation.

Mr. Tellessen filed the missing F-1 report on November 1, 2017.

PDC Staff recommended that the Commission waive the \$250 penalty assessed.

Motion 17-073 Moved by Commissioner Asay, seconded by Commissioner Johnson that:
The Commission grant reconsideration of the matter of PDC case 22774.
The motion passed.

Motion 17-074 Moved by Commissioner Ammons, seconded by Commissioner Asay that:
The Commission adopt the staff recommendation and waive the \$250 penalty assessed in the original Order for PDC case 22774.
The motion passed.

Chair Levinson asked that staff follow up on prior discussion of having all filers being required to provide the PDC a current email address which they authorize for use to receive all PDC communications.

Follow up/Next Steps: Deputy Director Sandahl and Director Bradford will meet with staff to determine next-steps.

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

COGEL

Executive Director Lavallee reported on his recent attendance at the 2017 Council on Governmental Ethics Laws (COGEL) convention.

He reported it was an excellent conference, with many states and jurisdictions reporting efforts to address similar issues to those facing the PDC. The most valuable piece was making connections with other agencies for future collaboration on shared interests.

Strategic Plan

Executive Director Lavallee noted that the strategic plan includes the edits and suggestions made by the Commission at the October 26 Commission meeting and the purpose of today's discussion is for the Commission to review the metrics the staff is proposing for measuring results.

He reminded the Commission that the strategic plan is a living document, meaning that it can always improve as we progress. A quarterly update on measures of the strategic plan items will be provided to the Commission at future meetings.

Commissioner Johnson noted that there is always the question of a vision, but not to forget the much-needed resources to move toward the vision. This is the PDC's limiting factor at this moment. He asked if there were any comparative staffing numbers from other peer agencies.

Executive Director Lavallee noted that COGEL has provided statistics to a certain extent, however it would be comparing "apples to oranges" since different jurisdictions have different responsibilities. He would like to work with COGEL to make these statistics more meaningful.

Commissioner Ammons asked about the metrics being used to measure goals in the proposed strategic plan, and whether they are based on current level staffing. He suggested using a format that will expand expectations if resources are increased. Chair Levinson agreed, noting that the plan needs to lay out for the public what the PDC would like to accomplish for each priority area if there were capacity to do so. What is reflected is far from the outcomes to which the agency aspires.

Deputy Director Sandahl noted that the PDC team has fully embraced the current process improvement efforts which are changing how the PDC operates. Even if the necessary extra funding is not provided, the PDC staff will continue to look at better ways to do things.

Follow up/Next Steps: Executive Director Lavalley and staff will revise the strategic plan to include metrics for what the agency would like to accomplish if it were staffed adequately. Staff will bring those metrics back to the Commission in January 2018 for further review and consideration.

Budget and Legislative update

Deputy Director Sandahl stated that it is anticipated that the Governor's budget will be released in the next few weeks. Good conversations with the Office of Financial Management have made both Director Sandahl and Executive Director Lavalley hopeful regarding the current PDC budget request.

Director Sandahl addressed the seriousness of the PDC staffing levels with key officials, and additional meetings are scheduled with legislators over the next month.

She discussed SB 5991, a bill pre-filed by Senator Billig. It would establish reporting requirements for some nonprofits that would have to register as "incidental committees" and disclose their funders if political spending is above a certain threshold.

Chair Levinson asked that staff present at upcoming commission meetings on legislation that is pending and the status of any PDC-related legislation.

Director Sandahl will also provide a weekly legislative update to the Commission during the session.

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

James Gutholm, Chief Technology Officer, highlighted the progress of the IT staff work. In 2015, IT staff started projects to automate routine data entry processes, the first being automatic creation of committee registration. For Continuing Committees, the PDC systems will re-register a committee for the new year. This update eliminates the need to have the information manually entered into the systems.

The IT staff continues to update and automate several processes. This year the election results data has been fully automated. This process alone has saved an estimated 100+ manual-entry staff hours.

Staff will begin work on automating the annual officials list (AOL) process.

Mr. Gutholm provided a written update and discussed numerous IT projects in support of the ongoing efforts to reach 100% electronic filing. This will improve efficiency and data access.

He discussed smaller projects that focus on providing immediate relief to customers using the current systems where we simply do not have the capacity to do the major updates needed in the near term.

Regarding enhancements to the L-5 application, Jennifer Hansen, Filer Assistance Specialist, and CIO Gutholm met with Department of Ecology (DOE) to preview the work they have done to develop their own internal process to keep track of all the information on public agency lobbying that is required to be reported.

As the IT staff executes the targeted fixes to the L-5 application, staff will use the DOE and their information-gathering tool as a reference. The PDC is grateful to DOE staff for their willingness to collaborate as staff develop systems to serve them and their peers more effectively.

The data center elimination project to replace the PDC current server with WaTech hosted services will continue for a significant amount of time.

Mr. Gutholm is hopeful that guest-WIFI will be available at the PDC in January of 2018.

CIO Gutholm discussed the open data portal ran by Socrata. Socrata has been showcasing the work PDC has completed to their other customers, recently publishing an article recognizing the PDC.

Chair Levinson asked if there is a way to draw attention on the website to the technology improvements the PDC would like to make, allowing the users to see “what’s on-deck” for improvements.

Commissioner Asay asked if there is an area on the website that shows the amount of complaints and the status. This information would be helpful to manage expectations if the user could see the quantity.

Communications and Outreach Director Bradford stated that the PDC is getting increased requests for this type of data. The current FreshDesk system is limited to pulling certain types of information. Staff is working to figure out if further information can be compiled using the FreshDesk tool, or whether there is a need to develop an alternative system.

Follow up/Next Steps: CIO Gutholm will work with Director Bradford to add a “What’s on-deck” IT projects page to the website.

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

Kim Bradford, Director of Communications and Outreach, reported that the volume of customer service help desk tickets was up this last month. This is primarily due to an increase in campaign reporting and filing activity.

Filer assistance trimmed resolution times, answering standard requests within 12 hours and clearing some of the more difficult requests within 24 hours.

Staff consolidated some of the online guidance for closing out campaigns onto a single reference page. This is currently linked in the “featured content” area of the PDC website.

The update to the elections results discussed by CIO Gutholm has allowed the data entry staff to reinvest this time into resolving older problem cases/reports. Staff has also begun developmental assignments to help increase skill sets.

Staff tested Skype tools to see how they would work for online training. It appears that this application will be an option to use for training topics such as ORCA. A trial online training for L-5 filers is scheduled; if successful staff will then provide an online Lobbyist training.

Staff also attended the Washington State Association of Counties last week to answer PDC-related questions and demonstrate PDC website functions.

Staff has launched a process to look at guidance on many issues surrounding the use of social media, online political advertising and other online campaign activities.

Staff is now recruiting stakeholders to help explore these issues.

Process Improvement Spotlight | [PDC Meeting Video](#)

Fox Blackhorn-Delph, Compliance Coordinator, discussed the implemented process improvement of auto-filled case closure letters through FreshDesk. This process allows staff to quickly close cases that lack evidence or are of a minor and technical nature and is in direct correlation with the agency strategic plan goal 3 to continue to build a better more agile and more responsive organization.

Enforcement | [PDC Meeting Video](#)

Chad Standifer, Assistant Attorney General, presented the cases and proposed Stipulations as to Facts and Violation for the Commission's consideration and approval.

Kurt Young, Senior Compliance Officer, presented additional facts and information.

Mark Lamb, Attorney for respondents House Republican Organizational Committee and The Reagan Fund, participated in person.

House Republican Organizational Committee (PDC Case 9208)

PDC staff alleged that the House Republican Organizational Committee violated [RCW 42.17A.235](#) and [42.17A.240](#) by failing to timely disclose \$85,000 in monetary contributions made to seven 2016 candidates for State Representative and one bona-fide political party organization on Summary Campaign Contribution and Expenditure reports (C-4 reports).

Based upon the Stipulation of Facts and Violations presented, the parties proposed a penalty of \$10,000, and the respondent affirms its intention to comply with RCW 42.17A and WAC 390 in the future.

Motion 17-075 Moved by Commissioner Bridges, seconded by Commissioner Johnson that:

The Commission accept the Stipulation of Facts and Violations as presented and assess a penalty of \$10,000.

The motion passed.

Commissioner Ammons asked about the deadline for payment of the fine. Chair Levinson asked both parties if they would concur in a modification to the stipulation to address this, to attest that the respondent is otherwise in compliance, and to require the respondent to amend its 2017 C-4 reports to accurately reflect the assets and expenditures of HROC to address the incorrect carry-forward identified by Staff. Each party concurred with the proposed modification.

Motion 17-076 Moved by Commissioner Asay, seconded by Commissioner Johnson that:

The Commission reconsider the motion 17-075.

The motion passed.

Motion 17-077 Moved by Commissioner Ammons, seconded by Commissioner Bridges that:

The Commission accept the Stipulation of Facts and Violations as modified and assess a penalty of \$10,000, to be paid within 30 days of the issuance of the Order, if the Respondent amends its 2017 C-4 reports to accurately reflect the assets and expenditures of HROC in order to address the incorrect carry-forward identified by Staff.

The motion passed.

The Reagan Fund (PDC Case 9343)

PDC staff alleged that The Reagan Fund violated [RCW 42.17A.235](#) and [42.17A.240](#) by failing to timely disclose \$84,640 in expenditures for contributions to political party organizations and political committees, as well as expenditures for political advertising, surveys and research, and get-out-the-vote telephone calls.

Based upon the Stipulation of Facts and Violations presented, the parties proposed a penalty of \$4,000, with \$2,000 suspended, conditioned on timely payment of the penalty and future compliance with RCW 42.17A and WAC 390. Chair Levinson asked both parties if they would concur in a slightly modified stipulation attesting that the Respondent is otherwise in compliance, and to require the Respondent to amend its 2017 C-4 reports to accurately reflect the assets and expenditures of HROC to address the incorrect carry-forward identified by Staff. Each party concurred with the proposed modification.

Motion 17-078 Moved by Commissioner Asay, seconded by Commissioner Johnson that:

The Commission accept the Stipulation of Facts and Violations as modified and assesses a penalty of \$4,000 with \$2,000 suspended. The suspension is conditioned on payment of the penalty within 30 days of the issuance of the Order and the Respondent committing no further violations of RCW 42.17A or WAC 390 within the next 4 years.

The motion passed.

Compliance and Enforcement Update | PDC Meeting Video

Kurt Young, Compliance Officer, presented the compliance status update for October 26, 2017, through November 29, 2017.

- 111 new complaints filed, of which 40 were Citizen's Action complaints.
- 18 complaint-return letters after initial review (unfounded or no evidence that a material violation may have occurred) — [WAC 390-37-060\(1\)\(a\)](#).
- 8 complaint-return letters with reminder (minor/technical filing issues with mitigating circumstances, no evidence that a material violation may have occurred).
- 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) — [WAC 390-37-060\(1\)\(b\)](#).
- 1 initiated complaint as a formal investigation (typically after initial review, or assessment of facts indicates evidence of violation(s)).

Discussion regarding Status of Investigation proposed terminology for the PDC website

The Commission and staff reviewed and provided input on the proposed list of status of cases terminology to be used on the PDC website. The Commission's goal is to make it clearer for the public and regulated community when a complaint has been dismissed or addressed through alternative resolution, using commonly understood terms rather than more technical language, and provided in a manner that makes it easy to find.

The Executive Director will work with staff to make changes reflecting the Commission's goals.

Executive Session

The Commission went in to Executive Session at 2:07 pm 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 3:13 pm.

The meeting adjourned at 3:13 pm.

Approved January 25, 2017