

**State of Washington**  
**PUBLIC DISCLOSURE COMMISSION**  
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**MINUTES – Regular Meeting**

9:30 a.m. | April 25, 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; Fred Jarrett, 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; Kurt Young, Compliance Officer; Alice Fiman, Compliance Officer; Jennifer Hansen, Compliance Officer; Chad Johnson, Budget Analyst, Department of Enterprise Services; John Meader and Chad Standifer, Assistant Attorneys 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](#)**

No comment made.

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

The Commission considered approval of the March 28, 2019, regular meeting minutes.

**MOTION 19-022** Moved by Commissioner Ammons, seconded by Commissioner Lehman that:

**The Commission approve the March 28, 2019, regular meeting minutes as presented.**

The motion passed 4-0. Commissioners Levinson, Ammons, Downing, and Lehman voted to approve.

Commissioner Jarrett was not present for the vote.

**Consideration and Possible Approval of Brief Extension (3-day) of Emergency Rules for Chapter 111, Laws of 2018 (SSB 5991) | [PDC Meeting Video](#)**

BG Sandahl, Deputy Director, presented a proposed three-day extension of the emergency rules for Chapter 111, Laws of 2018 (SSB 5991) for the Commission's consideration and approval. The extension would cover a 3-day period between the expiration of the emergency rules and the effective date of the permanent rules.

**MOTION 19-023** Moved by Commissioner Ammons, seconded by Commissioner Lehman that:

**The Commission approve the extension of the emergency rules for Chapter 111, Laws of 2018 (SSB 5991) as presented.**

The motion passed 4-0. Commissioners Levinson, Ammons, Downing, and Lehman voted to approve.

Commissioner Jarrett was not present for the vote.

**Legislative and Rules Update | [PDC Meeting Video](#)**

Sean Flynn, General Counsel, reviewed the PDC's request bill, SHB 1195. So that the new Commissioners would have a full overview, Mr. Flynn reviewed each section of the bill and the Commission's goals in those statutory amendments. Due to timing and other scheduled agenda items, the rules discussion continued later in the meeting.

**Welcome to New Commissioner Fred Jarrett | [PDC Meeting Video](#)**

Commissioner Fred Jarrett joined the public meeting at 9:55 a.m. Chair Levinson welcomed him as a new Commissioner.

**Budget /Transparency Account Update | [PDC Meeting Video](#)**

Chad Johnson, PDC Budget Analyst, Department of Enterprise Services, updated the Commission on the PDC budget and the "22W" Transparency Account fund balance. The agency is awaiting the final budget from the Legislature; once it is released Mr. Johnson will update the staff and Commission.

**Reporting Modification Requests | [PDC Meeting Video](#)**

The Commission conducted a hearing as part of the regular meeting to hear reporting modification requests. Jennifer Hansen, Compliance Officer, presented the requests. All applicants waived their right to participate at the hearing.

Commission Chair Levinson stated that she has previously worked with Mary Pugh, Judge Laura Inveen and Judge Elizabeth Martin, but that it would not keep her from being fair and objective regarding the requested modifications.

**NEW**

- [Mary Pugh, Non-voting Member, Washington State Investment Board](#), requested a reporting modification that would exempt her from disclosing the governmental and business customers that paid \$12,000, during 2018 to Pugh Capital Management, Inc. in which she serves as CEO. [WAC 390-28-100\(b\)](#).

**MOTION 19-024** Moved by Commissioner Ammons, seconded by Commissioner Downing 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 5-0.

Commissioners Levinson, Ammons, Downing, Lehman, and Jarrett voted to approve.

### **RENEWALS**

Commissioner Downing stated that he is acquainted with Judge John Chun, Judge Laura Inveen, Judge John Ruhl, and Judge Robert Whaley, but that it would not keep him from being fair and objective regarding the requested modifications.

Commissioner Jarrett stated that he has previously worked with Judge John Ruhl, but that it would not keep him from being fair and objective regarding the requested modifications.

[WAC 390-28-100\(d\)](#) Reporting modifications—Possible qualifications—Standards—Statement of financial affairs. Personal residence - Real property

- [John H. Chun, Judge, Court of Appeals District 1](#), requested a reporting modification renewal that would exempt him from disclosing his personal residential address information, including street address, parcel number, or legal description, on his Personal Financial Affairs Statement covering 2018.
- [John R. Ruhl, Judge, King County Superior Court](#), requested a reporting modification renewal that would exempt him from disclosing his personal residential address information, including street address, parcel number, or legal description, on his Personal Financial Affairs Statement covering calendar year 2018.
- [Mark Thompson, Fire Commissioner, Thurston County Fire Protection District 9](#) requested a reporting modification renewal that would exempt him from disclosing his personal residential address information, including street address, parcel number, and legal description, on his Personal Financial Affairs Statement for calendar year 2018
- [Lucinda Whaley, Member, Washington State Parks & Recreation Commission](#), requested a reporting modification renewal that would exempt her from disclosing her personal residential address and adjoining property information, including street address, parcel number, or legal description, on her Personal Financial Affairs Statement for 2018. Ms. Whaley's spouse, Robert Whaley, is a United States Senior District Court Judge for the Eastern District of Washington.
- [Robert Whaley, Trustee, Eastern Washington University](#). Judge Whaley requested a reporting modification renewal that would exempt him from reporting his personal residential address and adjoining property information, including street address, parcel number, or legal description, on his Personal Financial Affairs Statement for 2018.

**MOTION 19-025** Moved by Commissioner Ammons, seconded by Commissioner Downing that:

**The Commission grant the partial reporting modifications as requested by Judge John H. Chun, Judge John R. Ruhl, Mark Thompson, Lucinda Whaley, and Judge Robert Whaley, finding that literal application of the law would**

**cause a manifestly unreasonable hardship on the applicants and that a limited modification would not frustrate the purposes of the Act.**

The motion passed 5-0.

Commissioners Levinson, Ammons, Downing, Lehman, and Jarrett voted to approve.

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[WAC 390-28-100\(d\)](#) Personal residence - Real property & [WAC 390-28-100\(e\)](#) Other (iv) Applicants whose spouse or registered domestic partner creates a reporting obligation for the applicant.

- [Elizabeth Martin, Judge, Pierce County Superior Court](#), requested a reporting modification renewal that would exempt her from disclosing her personal residential address information, including street address, parcel number, or legal description, on her Personal Financial Affairs Statement for 2018.

**MOTION 19-026** Moved by Commissioner Ammons, seconded by Commissioner Downing 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 5-0.

Commissioners Levinson, Ammons, Downing, Lehman, and Jarrett voted to approve.

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[WAC 390-28-100\(e\)\(iv\)](#), Reporting modifications—Possible qualifications—Standards—Statement of financial affairs. (e) Other. (iv) Applicants whose spouse or registered domestic partner creates a reporting obligation for the applicant.

- [Laura Inveen, Judge, King County Superior Court](#) request a reporting modification renewal that would exempt her from disclosing the business customers that paid \$12,000, during 2018, to Kirkpatrick, Lockhart, Preston, Gates & Ellis (K & L Gates), a large law firm of which her spouse is a member with less than 1% ownership interest.

**MOTION 19-027** Moved by Commissioner Ammons, seconded by Commissioner Downing 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 5-0.

Commissioners Levinson, Ammons, Downing, Lehman, and Jarrett voted to approve.

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[WAC 390-28-100\(e\)\(iv\)](#), Reporting modifications—Possible qualifications—Standards—Statement of financial affairs. (e) Other. (iv) Applicants whose spouse or registered domestic partner creates a reporting obligation for the applicant.

- [Wm. Alan White – Grant County Public Hospital District 1](#) requested a reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during calendar year 2018 to Western Polymer Corporation.

**MOTION 19-028** Moved by Commissioner Ammons, seconded by Commissioner Jarrett 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 5-0.

Commissioners Levinson, Ammons, Downing, Lehman, and Jarrett voted to approve.

[WAC 390-28-100\(e\)](#), Reporting modifications—Possible qualifications—Standards—Statement of financial affairs. (e) Other.

[RCW 42.17A.235](#) & [RCW 42.17A.240](#)

- [Washington State Republican Party](#) requested renewal of the modification for calendar year 2018 and 2019 that would exempt them from itemizing all overhead or other allowable expenses on their state PDC reports for expenditures that are paid out of the WSRP federal account.
- [Washington State Democratic Central Committee](#) requested a renewal of the modification for calendar year 2018 and 2019 that would exempt them from itemizing all overhead or other allowable expense on their state PDC reports for expenditures that are paid out of the WSDCC federal account.
- The Commissioners discussed with staff the nature of the hardship for the parties, and the FEC's reporting requirements. Commission counsel raised the point that the documentation for the request did not include reference to the correct statutory citation, 390-28-100 (e), and suggested that be corrected. The Commission agreed and asked staff to make that correction in the materials and in the Commission's order.

**MOTION 19-029** Moved by Commissioner Lehman, seconded by Commissioner Downing that:

**The Commission grant the partial reporting modifications as requested finding that literal application of the law would cause a hardship on the applicants and that a limited modification would not frustrate the purposes of the Act.**

The motion passed 5-0.

Commissioners Levinson, Ammons, Downing, Lehman, and Jarrett voted to approve.

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[WAC 390-28-100\(b\)](#) & [WAC 390-28-100\(e\)\(iv\)](#), Reporting modifications—Possible qualifications—Standards—Statement of financial affairs. (b) Income and ownership interests. (e) Other. (iv) Applicants whose spouse or registered domestic partner creates a reporting obligation for the applicant.

- [Bruce Dammeier, County Executive, Pierce County](#), requested a reporting modification renewal that would exempt him from disclosing the business customers that paid \$12,000 or more during 2018 to Valley Press d.b.a. Print NW.
- [Lisa Janicki – County Commissioner, Skagit County](#), requested a reporting modification renewal that would exempt her from disclosing the business and other governmental customers that paid \$12,000 or more during calendar year 2018 to Janicki Industries, Inc. (JI), for which her husband serves a director.

The Commission requested additional information be provided from the applicants, in order to make a finding as to what the manifestly unreasonable hardship would be.

*Next steps/follow-up:* Jennifer Hansen will reach out to the applicants and ask for additional information. The Commission will plan to hear the requests at the May 23<sup>rd</sup>, 2019, Commission meeting.

**Enforcement—Proposed Stipulations | [PDC Meeting Video](#)**

Chad Standifer, Assistant Attorney General, presented proposed Stipulations as to facts, violation, and penalty for the Commission’s consideration and possible approval in cases:

**AG Water and Power Users of Grant County PDC Case [42326](#)** involving alleged violations of (1) RCW 42.17A.205 during the 2018 primary and general elections by failing to register as a political committee, filing 178 days late.

**AG Water and Power Users of Grant County PDC Case [42398](#)** involving alleged violations [RCW 42.17A.235](#) and [.240](#) by: (1) failing to timely file Monetary Contribution reports (C-3 reports) and Campaign Summary Receipts and Expenditure reports (C-4 reports) by failing to timely reports expenditures and contributions totaling \$54,804, filed between 72 and 178 days late.

Travis Meacham, on behalf of AG Water and Power Users of Grant County, participated in the hearing via telephone.

Alice Fiman and Kurt Young, Compliance Officers, participated in the hearing on behalf of the Staff.

T Committee stipulated that they violated [RCW 42.17A.205](#), [.235](#), and [.240](#).

The Committee agreed to pay a civil penalty of \$10,000 with \$7,500 suspended with the following conditions:

- The Committee is not found to have committed any further violations of [RCW 42.17A](#) or [WAC 390](#) within four years of the date of the final order in this matter.  
The suspended penalty shall not be assessed solely based upon any remediable violation, minor violation, or error classified by the commission as appropriate to address by a technical correction.
- The Committee follows the PDC reporting requirements.
- The non-suspended portion of the penalty (\$2,500) is paid by the Committee within 30 days of the date of the final order in this matter.

Staff recommended acceptance of the proposed Stipulations as presented.

The Commission asked whether the Respondent was now in compliance with all reporting requirements and inquired further about the mitigating and aggravating factors.

**MOTION 19-030** Moved by Commissioner Ammons, seconded by Commissioner Downing that:

**The Commission find that the Respondent is now in compliance with RCW 42.17A and WAC 390 and accept the proposed Stipulations as to Facts, Violation, and Penalty and assess a civil penalty of \$10,000 with \$7,500 suspended, on the conditions noted.**

The motion passed 5-0.

Commissioners Levinson, Ammons, Downing, Lehman, and Jarrett voted to accept the Stipulation.

### **Executive Session**

The Commission went in to Executive Session at 11:54 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 meeting returned to open session at 1:02 p.m.

**Legislative and Rules Update continued | [PDC Meeting Video](#)**

Chair Levinson continued the discussion on SHB 1195 and discussed legislative amendments as to who would be responsible for attorneys' fees and costs should a citizen action claim end up in litigation and the Respondent be found in violation of the law; as well as language in the bill prohibiting the PDC from making F-1 personal financial affair statements accessible online.

The Commission reviewed previous discussions regarding F-1 online accessibility and stakeholder engagement to gather additional input on improved accessibility, on whether the statutory requirements for what must be reported in F-1s is as helpful to the public as it could be in providing the most meaningful information to assess possible conflicts, whether the way in which information that must be reported could be made more understandable for filers, and the plan to develop an electronic App for filers to use instead of the current form. The Commission discussed a possible gubernatorial veto of section 7 and what other provisions the section includes. The Commission discussed with the staff the commitment of the agency to implement all the operations requirements currently in section 7 that had been moved there from other sections, so that if the section were vetoed, other sections wouldn't also have to be vetoed for the purpose of restoring those sections to their original language. The staff agreed that those statutory operational requirements would be fulfilled until formally restored in next year's agency-request bill.

During the discussion of HB 1195 the Commission and staff watched via TVW SHB 1195 being heard live in the Senate. The bill passed out of the Senate as amended.

**MOTION 19-031** Moved by Commissioner Ammons, seconded by Commissioner Downing that:

**The Commission and PDC staff pursue a veto of section 7 to remove the prohibition on the PDC making personal financial affairs statements accessible online, while still operationalizing all other requirements of section 7.**

The motion passed 5-0.

Commissioners Levinson, Ammons, Downing, Lehman, and Jarrett voted in favor.

*Next Steps/Follow Up:* Staff to brief the Commission on the proposed F-1 stakeholder outreach at the May meeting.

*Next Steps/Follow Up:* Staff to cross reference sections noted by Chair to ensure ongoing implementation of those operational requirements and then incorporation into next year's bill.

#### **Other Bills of Interest | [PDC Meeting Video](#)**

Sean Flynn, General Counsel, provided a brief update on other bills of interest to the PDC. He elaborated on the status of the PAC to PAC bill (ESHB 1379), required sexual harassment training for lobbyists (SSB 5861), which will require that when lobbyists register they must attest that they have completed a legislative code of conduct training course, and the contribution limits for port district candidates bill (HB 1375).

Staff did not discuss the schedule for rulemaking for ESHB 1379, which will become effective at the end of July, during the period from June 30 until election day when the PDC may not change rules that affect campaigns.

*Next Steps/Follow Up: Staff will provide the Commission with the schedule for HB 1379 rulemaking and review the interim guidance provided to the regulated community at the May meeting.*

### **Strategic Plan Update | [PDC Meeting Video](#)**

Executive Director Peter Lavalley summarized the work done previously with the staff and Commission in developing an aspirational strategic plan and talked about the growth of the agency since the last review of the plan. Director Lavalley noted the current efforts underway from each team in the agency to review the plan and propose updates as needed and looks forward to discussion with the Commission in June.

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

Kurt Young, Compliance Officer, reported on the status of PDC cases and case statistics in the period since the last Commission meeting.

- 6 cases closed with no evidence of violations
- 21 cases closed with a reminder
- 8 cases closed with a formal written warning
- 1 case closed administratively
- 1 case closed as a request for technical correction
- 1 case closed as resolved by citizen commencing action (this is a pre-ESHB 2938 case)
- 2 cases closed with Commission finding violations

Deputy Director Sandahl reported that there are 214 cases open, including 169 pre-ESHB 2938 and 43 post-ESHB 2938 cases.

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

#### **Executive Director**

Executive Director Peter Lavalley summarized highlights discussed earlier in the meeting such as legislation, rulemaking and budget.

The PDC budget is in good shape except for the Attorney General's office billings which continue to be the biggest expenditure. Executive Director Lavalley feels cautiously optimistic that the Legislature is aware of the PDC's budget and ongoing issues.

#### **Communications, Outreach and Filer Assistance update**

Communications and Outreach Director Kim Bradford reported that the customer service team just completed the busiest deadline of the year for personal financial affairs statements; only about 700 filers still need to file. Director Bradford discussed the next large task being the release of the new C-1 candidate registration application in May.

#### **IT Activity Report and Process Improvement Spotlight**

Chief Information Officer (CIO) James Gutholm discussed his project status report, as well as the ongoing usability studies that staff member David Metzler has been leading.

CIO Gutholm said the release of the case tracking project went so smoothly that they were able to implement other features, such as an option that allows users on the PDC website to follow cases by subscribing to receive updates on any cases in which they are interested. He added that this functionality could be applicable to other areas of the website at a later date.

### **Agency Policies**

General Counsel Sean Flynn gave a brief update on the agency policies that are currently under review by Jana Greer, Administrative Officer. He added that Jana is researching state policies and determining where the PDC may need to tailor its own.

**Meeting adjourned at 2:57 p.m.**

**Approved May 23, 2019.**

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### **Next Steps/Follow-Up**

- Jennifer Hansen will reach out to the two modification applicants whose requests were held and ask for additional information. The Commission will plan to hear the requests at the May 23<sup>rd</sup>, 2019, Commission meeting.
- Staff will brief the Commission about F-1 stakeholder outreach at the May meeting.
- Staff will cross reference sections noted by Chair to ensure ongoing implementation of those operational requirements in section 7 of SHB 1195 and then incorporation into next year's agency-request bill.
- Staff will provide the Commission with the schedule for HB 1379 rulemaking and review the interim guidance provided to the regulated community at the May meeting.