

State of Washington
PUBLIC DISCLOSURE COMMISSION
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MINUTES – Regular Meeting

9:30 a.m. | June 27, 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; 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; and John Meader, Assistant Attorney General.

Chad Standifer, Assistant Attorney General, participated via conference call for the enforcement hearing only.

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](#)

Glen Morgan commented on PDC Cases 39653 and 42884 (respondent Sheryl Miller) scheduled for hearing at today's meeting.

Mr. Morgan noted that the county in this matter is small and most people do not pay much attention to its election results. In this case, this candidate filed no documents of any kind with the PDC and survived the primary, edging out candidates who followed the rules. Mr. Morgan felt that the outcome of the election was changed by this.

Mr. Morgan did file complaints with the PDC regarding this matter. He feels that it is important that candidates follow the rules, even in small jurisdictions.

Norm Smith submitted a written comment also regarding PDC Cases 39653 and 42884. Copies of his statement were provided to the Commission members and placed in the meeting materials.

Meeting Minutes | [PDC Meeting Video](#)

The Commission considered approval of the May 23, 2019, regular meeting minutes.

MOTION 19-039 Moved by Commissioner Ammons, seconded by Commissioner Downing that:

The Commission approve the May 23, 2019, regular meeting minutes as presented.

The motion passed 5-0. All members approved.

Election of 2019-2020 Chair and Vice Chair | [PDC Meeting Video](#)
Agenda item moved to the afternoon portion of the meeting.

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

The Commission conducted a hearing as part of the regular meeting to hear requests for reporting modifications. Jennifer Hansen, Compliance Officer, presented the requests.

All applicants waived their right to participate in the hearing.

Chair Levinson noted that she has worked with Judge Dean Lum and with Grant Degginger but that it would not affect her ability to be fair and objective regarding the requested modifications. Commissioner Downing noted that he knows Judge Dean Lum and Grant Degginger personally but that it would not affect his ability to be fair and objective regarding the requested modifications. Commissioner Jarrett noted that he has worked with Jon David Wisenteiner and Grant Degginger but that it would not affect his ability to be fair and objective regarding the requested modifications.

The following individuals requested a renewal of a reporting modification:

Jon David Wisenteiner, City Council Member, City of Mercer Island, requested a renewal of reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during the calendar year 2018 to Horn Distributing Co., Inc. He also requested retroactive reporting modification that would exempt him from disclosing the business customers that paid \$12,000 or more during the calendar year 2016 and calendar year 2017 to Horn Distributing.

MOTION 19-040 Moved by Commissioner Ammons, seconded by Commissioner Jarrett, that:

The Commission grant the partial reporting modification for 2018 and a retroactive reporting modification for calendar years 2016 and 2017 as requested, finding that the 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 4-1. Commissioners Levinson, Ammons, Downing, and Jarrett approved. Commissioner Lehman voted no.

The following individuals requested a new reporting modification:

[Gordon Hester](#), Fire Commissioner Candidate, Spokane Fire Protection District 10, requested a reporting modification that would exempt him from disclosing the business customers that paid

\$12,000, during the previous 12 months, to Kiemle & Hagood Company, and KH Facility Services, which is an owned subsidiary of Kiemle & Hagood Company.

MOTION 19-041 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 4-1.

Commissioners Levinson, Ammons, Downing, and Jarrett approved.
Commissioner Lehman voted no.

[Dean Lum](#), Judge, King County Superior Court, requested a reporting modification that would exempt him from reporting real estate, including street address, parcel number, or legal description, for his residential address on his Personal Financial Affairs Statement covering the calendar year 2018. Judge Lum also requested retroactive modification that would exempt him from reporting real estate, including street address, parcel number, or legal description, for his residential address on each F-1 report filed as an elected official covering calendar years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017.

MOTION 19-042 Moved by Commissioner Downing, seconded by Commissioner Jarrett, that:

The Commission grant the partial reporting modification for calendar year 2018 and the retroactive partial reporting modification for calendar years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017 as requested, finding that the 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. All members approved.

[Grant Degginger](#), Port Commissioner Candidate, Port of Seattle, requested a reporting modification that would exempt him from listing the business customers that made payments of \$12,000 or more to the law firm of Lane Powell, PC, during the previous twelve months.

MOTION 19-043 Moved by Commissioner Ammons, seconded by Commissioner Downing, that:

The Commission grant the partial reporting modification as requested, finding that the 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 4-1.

Commissioners Levinson, Ammons, Downing, and Jarrett approved.
Commissioner Lehman voted no.

[F. Lorraine Bodi](#), City Council candidate, City of Lake Forest Park, requested reporting modification that would exempt them from disclosing the business customers that paid \$12,000, during the previous twelve months, to Eglick & Whited, PLLC (E & W Law), a small law firm with two partners and two paralegals. Bodi's spouse, Peter Jay Eglick, is a partner with 50% ownership interest.

MOTION 19-044 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 3-2.

Commissioners Ammons, Downing, and Jarrett approved. Commissioners Levinson and Lehman voted no.

The hearings concluded. Final orders will be issued within 10 days.

Commissioner Ammons asked that pronoun preference be added to the instructions and forms related to the reporting modification request to allow the Commission to properly address applicants.

The Commission and staff discussed the reporting modification process, what information from requestors the Commission needs, and the PDC staff's role in presenting the requests.

Ms. Hansen commented that the current F-1 stakeholder project will prompt the need for conversations about the current reporting modification forms/process and needed changes.

Next steps/follow-up:¹ Staff to determine the best way to incorporate the request for pronoun preference in forms related to reporting modification requests.

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.

- 28 cases closed with no evidence of violations
- 17 cases closed with a reminder
- 10 cases closed with a formal written warning
- 2 cases closed administratively
- 3 cases closed with a completed statement of understanding
- 1 case closed with Commission finding violations
- 1 case action commenced by a citizen under Chapter [42.17A RCW](#)
- 3 case status reviews conducted

Deputy Director Sandahl reported that there are 141 cases open, including 108 pre-[ESHB 2938](#). Staff received 33 new cases and closed 71 cases since the previous Commission meeting. Thirty-six of those closed were pre-[ESHB 2938 cases](#). Deputy Director Sandahl also talked about the real-time case updates that the public can view on the PDC website.

*Next steps/follow-up:*² Staff to work with AG's Office to determine a reporting mechanism for cases that end up in court where the PDC is not a party, so the staff can update information regarding the outcome of the proceedings in the case tracking system and in reports to the Commission.

Enforcement Hearing | [PDC Meeting Video](#)

Chad Standifer, Assistant Attorney General, participated via telephone.

Sheryl Miller, the Respondent, participated via telephone

Alice Fiman, Compliance Coordinator, participated in person.

Chad Standifer, AAG, presented staff findings and recommendations for PDC Cases [39653](#) and [42884](#), Sheryl Miller, a candidate for Pend Oreille County Commissioner, Position 2 in 2018, for Commission consideration.

Mr. Standifer summarized the alleged violations of: (1) [RCW 42.17A.235](#)(1), (2), and (3) by failing to timely file Monetary Contribution (C-3) reports and Campaign Summary Receipts and Expenditure (C-4) reports, as required for a candidate under the Full Reporting Option, disclosing contribution and expenditure activities undertaken during her 2018 campaign; (2) [RCW 42.17A.235](#)(4) by failing to allow a person requesting to inspect the Campaign Books of Account the opportunity to review the information as required during the 10-day period preceding an election; and (3) [RCW 42.17A.110](#) and [WAC 390-16-043](#) by failing to provide the Campaign Books of Account to PDC staff after the issuance of a Subpoena Duces Tecum.

PDC staff recommended a civil penalty of \$5,000, an amount warranted considering the aggravating factors.

The Commission went into deliberation at 11:31 a.m.

The Commission returned to the enforcement hearing at 11:43 a.m.

MOTION 19-045 Moved by Commissioner Downing, seconded by Commissioner Jarrett, that:

The Commission accept the findings of facts set forth in the report of investigation and find that the respondent has violated [RCW 42.17A.235\(1\), \(2\) and \(3\)](#) by failing to timely file required campaign reports under the full reporting option; [RCW 42.17A.235\(4\)](#) by failing to provide campaign books of account for review and inspection as required; and [RCW 42.17A.110](#) and [WAC 390-16-043](#) by failing to provide the campaign books of account to the PDC staff as required.

The Respondent be required to file all missing required campaign finance reports within 10 working days of the final order in this matter, and a civil

penalty in the amount of \$5,000 be imposed with a suspended amount of \$4,500 with the requirement that the missing campaign finance reports be filed within the prescribed timeframe; and no additional violations be found for four years from the date of the final order, and the \$500 unsuspended portion of the penalty be paid per the payment schedule agreed to by the PDC staff and Respondent.

The motion passed 5-0. All members approved.

Executive Session

The Commission went into Executive Session at 11:55 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. Possible action regarding pending litigation, or other matters properly discussed during the executive session, would be taken following the Executive Session.

The Commission meeting returned to open session at 1:08 p.m.

F-1 Survey Discussion | [PDC Meeting Video](#)

Kim Bradford, Communications and Outreach Director, discussed the results of the F-1 survey.

[Financial Affairs Disclosure Survey Findings Presentation – June 2019](#)

A survey was launched earlier in June to poll the public and F-1 filers (2017-2018) about F-1 requirements and access. F-1 filings remain the only PDC report that is not readily available online to the public. In 2018 the Commission began discussions about making the F-1 filings available online. The goal of the survey was to get additional input about online accessibility and to identify areas for possible regulatory reform, such as whether the statutory requirements for financial affairs reporting provide the most helpful information for the public to assess possible conflicts of interest or concerns, and whether the details filers are required to report are the best way to illuminate those. Input gathered from this survey will be used to clarify and expand on the information already provided by staff and filers.

The survey has received more than 1,400 responses, the majority from F-1 filers. Staff briefed the Commission on some of the biggest takeaways about how respondents rated privacy concerns, public interest, and ease of access. Some questions designed to probe areas where there might be room for regulatory reform were inconclusive, leading staff to recommend that they bring forward possible proposals to the Commission, and then the staff will do more outreach.

Stakeholders were asked if they would like to participate in a workgroup or provide additional input, and a large number said yes. Staff will determine what type of group(s) or additional survey would be created and reach out to those who are interested in participating.

Next steps/follow-up:³ Results and comments of the survey will be emailed to the Commission for review on or before July 1. A further discussion of possible regulatory reform will occur at the July Commission meeting.

Legislation | [PDC Meeting Video](#)

Deputy Director Sandahl reviewed the 2020 agency-request legislation outline/schedule and approach.

Staff and the Commission reviewed the ongoing list of potential items for future legislation to determine/identify if there is capacity or need to pursue any of these items at this time and to allow staff enough time to research.

Staff will bring back to the Commission at the July meeting the proposed 2020 legislative items for further discussion. Staff anticipates having an outline of proposed legislation in place for September's "Committee Days" so that Executive Director Lavalley and staff can meet with legislative members.

Next steps/follow-up:⁴ Staff will bring back to the Commission at the July regular meeting the proposed 2020 legislative items.

Rulemaking and Interpretations | [PDC Meeting Video](#)

Update for Rulemaking Schedule

Deputy Director Sandahl reviewed the rulemaking schedule.

At the end of June, the Commission will review the permanent rules draft to incorporate comments from the Commission and then staff will file with the Office of the Code Reviser. Once filed, staff will publish on the PDC website for public comment.

A CR 102 will be filed for public notification that Sept. 26 will be the public hearing for the permanent rules for [SHB 1195](#) and [ESHB 1379](#). The October Commission meeting will consider adoption of rules for [SHB 1195](#) and [ESHB 1379](#), as well as have discussions on three interpretations.

6-Month Rules & Interpretations Agendas for the period of July 3, 2019 – Jan 31, 2020

Deputy Director Sandahl reviewed the semi-annual rules and interpretations agendas for Commission consideration and approval.

Staff requested that the Commission adopt as presented the rules and interpretation agendas for the period of July 31st, 2019 to January 31st, 2020.

Next steps/follow-up:⁵ Staff to include an adoption date for interpretations in the legislation, rules, and interpretations schedule for the next Commission meeting.

MOTION 19-046 Moved by Commissioner Ammons, seconded by Commissioner Jarrett, that:

The Commission adopt the rules development agenda as submitted to the Commission to the Washington State Register for the period of July 31st, 2019 to January 31st, 2020.

The motion passed 5-0. All members approved.

Initial Review of Draft Permanent Rules for SHB 1195 and ESHB 1379

Deputy Director Sandahl presented the draft permanent rules. The Commission and staff discussed proposed changes since the emergency rules and further technical corrections and language changes that need to be incorporated into the drafts.

- Permanent rulemaking for [Title 390 WAC](#) to implement Chapter 428, Laws of 2019 ([SHB 1195](#))
- Permanent rulemaking for [Title 390 WAC](#) to implement Chapter 261, Laws of 2019 ([ESHB 1379](#))

Strategic Plan Presentations | [PDC Meeting Video](#)

Executive Director Lavalley and PDC staff members presented an update of the progress and changes made in the 2017-2020 strategic plan:

- Empower the public to “follow the money” in politics.
- Help the regulated community achieve and maintain compliance.
- Continue to build a better, more agile, and more responsive organization.
- Attract and retain a talented and dedicated workforce.

Staff reviewed goals and accomplishments as well as the changes made.

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

Budget update | [PDC Meeting Video](#)

Chad Johnson, Budget Analyst, Department of Enterprise Services, updated the Commission on the status of the 22W transparency fund. Its balance is \$806,246. After accounting for appropriations made in the 2019-21 budget, the fund has \$232,246.

The fiscal year-end is June 30 and financial close-outs are underway and will continue through July and August. Mr. Johnson will be meeting with PDC executive management to start the allotment process for the fiscal year. Once allotments are in place the agency can then determine any other needs.

The Attorney General’s Office billed the PDC for services in FY19 and were not included in timely billing. This estimated \$85,000 will come out of the FY19 savings.

Executive Director | [PDC Meeting Video](#)

Executive Director Lavalley highlighted the caseload numbers that are down dramatically due to increased resources and the hard work of the Compliance team.

He highlighted the improvements to the office space to accommodate the additional staff. These changes were accomplished while maintaining a favorable work environment for all staff.

Staff will be working on laying the groundwork for the upcoming legislative session.

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

Kim Bradford, Communications and Outreach Director, had no additional items to report beyond her written report.

Commissioner Jarrett commented about the recent Spokane training and what a good opportunity it offered. Director Bradford noted that it had been several years since the PDC had funding to do “away” training and this was part of a concerted effort to start providing this once again.

IT Activity Report | [PDC Meeting Video](#)

James Gutholm, Chief Information Officer, noted that in addition to his written report submitted there has been an enormous amount of planning work completed for the new F-1 application. The internal team is in place and a project charter almost complete. Milestones have been scoped with volumes of documentation describing what and how to do this project and how to stay on track.

Process Improvement | [PDC Meeting Video](#)

James Gutholm reported on the recent purchase of a copier/printer for the compliance area. To date, the PDC has utilized one printer/fax/copier for the entire staff. With the addition of staff, the agency has added copier/printer which now brings the total to two for the entire agency.

The printer purchase for the compliance area is geared toward that staff’s printing needs, while the existing printer/copier/fax is used by the customer service and other staff for general use.

Annual Performance Measures Update & Report | [PDC Meeting Video](#)

Deputy Director Sandahl reviewed the 2019 Governor’s performance measure report that will be submitted on July 1, 2019, to Results Washington.

This report is from June 1, 2018, through May 31, 2019, an annual update required by [RCW 42.17A.065](#) which measures the Commission’s timeliness in providing campaign finance data and lobbying expenditure information to the public. The campaign finance data includes reports filed by political committees, candidates, lobbyists, and lobbyist employers.

Election of 2019-2022 Chair and Vice-Chair per [WAC 390-05-100](#) | [PDC Meeting Video](#)

Rules for the election of Commission officers are set forth in [WAC 390-05-100](#): Public disclosure commission—Organization and structure—Officers—Terms. The terms are for one year, or until a successor is elected.

Chair Levinson asked Commission members for nominations of 2019-2020 officers.

Commissioner Downing moved that Commissioner Levinson's term as chair be extended to October 1 rather than end on July 1, and nominated Commissioner David Ammons to be the 2019-2020 Commission Chair, and Commissioner Lehman to be the 2019-2020 Vice-Chair.

Both Commissioners terms will run from October, 2019 to October, 2020.

MOTION 19-047 Moved by Commissioner Downing, seconded by Commissioner Jarrett, that:

The Commission elects David Ammons as Chair and Russell Lehman as Vice-Chair of the Public Disclosure Commission for the calendar year beginning October 1, 2019, through October 1, 2020 and that Chair Levinson's term be extended until October 1

The motion passed 5-0. All members approved.

Commissioner Lehman recognized Chair Levinson for her excellent work and leadership on the Commission.

Meeting adjourned at 4:27 p.m.

Approved July 25, 2019.

Next Steps/Follow-Up Items

- ¹ Staff to determine best way to incorporate the request for pronoun preference in forms related to reporting modification requests.
- ² Staff to work with AG's Office to determine a reporting mechanism for cases that end up in court where the PDC is not a party, so the staff can update information regarding the outcome of the proceedings in the public case tracking system and in reports to the Commission. .
- ³ Results and comments of the survey will be emailed to the Commission for review on or before July 1. A further discussion of possible regulatory reform will occur at the July Commission meeting.
- ⁴ Staff will bring back to the Commission at the July regular meeting the proposed 2020 legislative items for agency-request legislation.
- ⁵ Staff to include an adoption date for interpretations in the legislation, rules, and interpretations schedule for the next Commission meeting.