

**State of Washington  
PUBLIC DISCLOSURE COMMISSION**

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**MINUTES – Regular Meeting**

9:30 a.m. | August 23, 2018

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

**Commission Members Present**

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

**Staff Present**

Peter Lavallee, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; James Gutholm, Chief Technology Officer; Jennifer Hansen, Compliance Officer; Kurt Young, Compliance Officer; Phil Stutzman, Compliance Officer; Jana Greer, Administrative Officer; Toni Lince, Public Records Officer; Tabatha Blacksmith, Compliance Coordinator; Ashley Miller, Customer Service Specialist; John Meader, Assistant Attorney General; and Chad Standifer, Assistant Attorney General; Chad Johnson, Department of Enterprise Services Budget Analyst.

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](#)**

**F-1 Website Publication**

A number of filers expressed concerns about the Commission's decision earlier this spring to publish Financial Affairs Statements (F-1's) from 2018 online. Among the concerns expressed was the lack of timely information provided to filers about the plan to publish, the potential for nefarious and frivolous use of the information contained on the F-1s, and the detrimental effect the publication could have on the ability to recruit good candidates for elected and appointed offices. Commenters pointed out that the Commission had considered online posting of F-1s in 2014 and decided against it after a lengthy process that included stakeholder input. They said the current system – of making F-1s available upon request – is working and allows for some tracking of who is requesting the documents. Commissioners thanked the commenters for their testimony and said that potential unintended consequences are important for the Commission to hear. Chair Levinson noted that concerns regarding the easier access to personal residential addresses have also been received from judges and judicial associations.

Executive Director Lavallee highlighted a campaign research firm report on the availability of records in other states of filings similar to the PDC F-1. Thirty states have these online, though the report was mainly focused on elected officials required to file personal financial disclosures, not other types of filers. Various states have different agencies cover and track separate types

of filers. Some do not publish all financial disclosure reports online. One state, Arizona, treats some judicial officials differently in that their reports are not available online.

Director Lavalley noted that the original financial affairs reporting requirement stemmed from I-276 and only covered elected officials and candidates. This is where the greatest public interest lies, in the financial affairs of elected officials and candidates. In the late 70's or early 80's, the requirement for legislative staffers to file an F-1 was added by the Legislature.

The Commission may want to consider if there is public interest in having the financial information available of appointed officials such as professional staffers. The Commission also may want to allow time for the Legislature to weigh in. The Legislature provides the PDC with a list of identified staffers who are required to file the F-1. They may want to review this and determine at what level a staffer would be required to file, or to repeal the filing requirement for the professional staffers.

PDC staff had made the point that the vast majority of public records requests made to the PDC relate to F-1's.

Chair Levinson suggested that the Commission consider pausing the implementation of the publication of 2018 F-1's online until the October regular Commission meeting to allow for additional discussion about options, including approaches for additional stakeholder input. The Commission could then decide at the October meeting on whether more time is needed or if implementation should proceed, and for which types of filers. Timing of next steps needs to take into account the legislative session and the first quarter window when filings are underway.

Commissioner Ammons suggested, at the earliest opportunity, to proceed with the publishing F-1s of the elected officials and candidates.

Commissioner Johnson suggested postponing the implementation of publishing the 2018 F-1's online until 2019 to allow ample time for comments from the Legislature and concerned filers to be reviewed and considered.

**MOTION 18-055** Moved by Commissioner Johnson, seconded by Commissioner Ammons that:  
The Commission pause making a decision on publishing the 2018 F-1s online until no earlier than January 2019.

The motion passed 4-0.

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

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

**MOTION 18-056** Moved by Commissioner Ammons, seconded by Commissioner Downing

that:

**The Commission approve the July 26, 2018, regular meeting minutes.**  
The motion passed 4-0.

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

### Hiring Update

Executive Director Lavalley reported on recruitment of two ITS 4 project positions. In addition to posting of recruitment, Chief Technology Officer James Gutholm has been doing some additional outreach to past applicants and interns who expressed interest in open positions. IT is looking to fill these positions as soon as possible.

A recruitment for an additional Customer Service Specialist 1 will begin once the position is established. This position is one of the positions initially identified for hiring.

Recently hired PDC staff members were asked (after 30 days of employment) if there were any items or information they would have liked to have had available upon hiring or during training. All reported that the training and onboarding they received was helpful and informational, they had no recommendations to improve the process at this time.

Sean Flynn will start on September 1 as the PDC General Counsel. The executive management team will work with Mr. Flynn to determine what portions of work will be shifted to the General Counsel.

### Communication and Outreach

Staff is continuing to work on improvements to the reporting modification process, moving forward with a survey asking filers for input on the proposed changes. The survey will include an invitation to participate in the review of drafts of proposed modification applications.

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

### ESHB 2938 request for 2<sup>nd</sup> emergency rules

Initial emergency rules to implement ESHB 2938 were adopted by the Commission during a special Commission meeting on May 17, 2018, so that they would be in place before the new law took effect on June 7, 2018. Because emergency rules are valid for only 120 days, they are set to expire on October 4, 2018. The Commission must adopt emergency rules again to cover the period from October 4 until January 1, when the permanent rules will take effect. The permanent rulemaking process is currently underway, and a public hearing is scheduled for September 27, 2018.

The second emergency rules are identical to the first emergency rules. Staff requested the Commission adopt the second emergency rules for the implementation of ESHB 2398, Chapter 304, Laws of 2018 as presented (the emergency rules will be in effect upon filing).

**MOTION 18-057** Moved by Commissioner Ammons, seconded by Commissioner Johnson that:  
**The Commission adopt the emergency rules for the implementation of ESHB 2938, Chapter 304, Laws of 2018.**

The motion passed 4-0.

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

Commission and staff reviewed and discussed an overview of proposed expenditures for the upcoming biennium.

Key items identified to be submitted as decision packages:

- Lease adjustment based on the expanding footprint of the PDC
- IT maintenance for increase in number of leased PCs for new staff
- Increase in funding to cover growth in Attorney General's Office costs
- Lump sum appropriation from the new "Transparency account" fund 22W to fulfill requests for attorney fees or court costs
- Making IT project positions permanent
- Adjustment in travel and training budget to cover new FTE's

Staff recommended approval of the proposed budget items as presented. The Commission and staff discussed the supplemental budget process and the Transparency Account established in ESHB 2938.

**MOTION 18-058** Moved by Commissioner Ammons, seconded by Commissioner Johnson that:  
**The Commission approve the biennial submission as presented.**

The motion passed 4-0.

#### **Review of IT Projects Portfolio | [PDC Meeting Video](#)**

James Gutholm, Chief Technology Officer, discussed and presented a draft of the IT Strategic Priorities plan.

The Commission and staff discussed the portfolio of projects as a very helpful way to explain the need for I.T. resources as well as a tool to help identify items that could be funded by the Transparency Account. The Commissioners asked that DES work with the staff on developing an approach for seeking Legislative and Executive pre-approval of draw-downs from the Account

as resources become available, based on the portfolio, once finalized.

*Next Steps/Follow-up:* Mr. Gutholm will work on finalizing the portfolio for the September Commission meeting supplemental budget discussion and DES staff will work with agency staff on the supplemental budget request and development of the Transparency Account authorization approach.

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

### Review of initial draft agency-request legislation

The Commission and staff reviewed the initial draft of the ESHB 2938 trailer bill.

A special Commission meeting is scheduled for September 6 for consideration and possible approval. Changes/amendments made will be sent to the Commission prior to the meeting for review.

It is the intention of the Commission to continue to work with legislators, the Governor's office, and stakeholders on the bill.

Due to time constraints, the discussion was continued until later in the meeting.

### **Executive Session**

The Commission went in to Executive Session at 12:24 p.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.

Returned to open meeting at 1:05 p.m.

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

Chad Standifer, AAG, presented a signed stipulation as to facts, violations and penalty in PDC Case No. 34985 *John McCoy (Re-Elect John McCoy)*.

Sr. Compliance Officer Phil Stutzman, Senator John McCoy, and McCoy's treasurer, Dean Ledford, participated in-person.

Alleged violations of [RCW 42.17A.235](#) and [.240](#) included failing to timely file contributions totaling \$38,926 and expenditures totaling \$5,089 from 2015-2018, and by violating [RCW 42.17A.220](#) by failing to timely deposit contributions within five business days of receipt totaling \$17,700 from 2015-2017, for the 2018 re-election campaign of John McCoy, State Senator, 38<sup>th</sup> Legislative District.

**MOTION 18-059** Moved by Commissioner Johnson, seconded by Commissioner Downing that:  
**The Commission accepted the Stipulation as to Facts, Violation and Penalty as presented and assess a civil penalty of \$5,000 with \$2,500 suspended, as long as the respondent is not found to have committed any further violations of RCW 42.17A or WAC 390 within four years of the final order in this matter. The non-suspended portion of the penalty is to be paid within thirty days of the date of the final order.**

The motion passed 4-0.

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

Raquel Montoya-Lewis – Superior Court Judge, Whatcom County Superior Court | [WAC 390-28-100\(d\)](#)

Judge Montoya-Lewis participated via telephone.

Jennifer Hansen, Compliance Officer, presented Judge Raquel Montoya-Lewis's request for a reporting modification that would exempt her from reporting her real estate, including street address, parcel number, or legal description, for her residential address on her Personal Financial Affairs Statement covering 2017, as well as a retroactive modification covering calendar years 2015 and 2016.

**MOTION 18-060** Moved by Commissioner Ammons, seconded by Commissioner Downing that:

**The Commission grant the partial reporting modification as requested for each reporting period, 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.

#### **Legislation (Continued) | [PDC Meeting Video](#)**

##### Review of initial draft agency- request legislation

The Commission and staff continued a review of the agency-request legislation draft.

*Next Steps/Follow-up:* The staff will continue to revise the draft to address the issues raised by the Commission. A Special Commission meeting is scheduled for September 6 for further consideration and possible approval.

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

Commission Chair Levinson asked staff to reassess the format of the current enforcement

report to be more in line with the case status report, reflecting the new approach to quicker triaging, categorization, and alternative resolutions that the agency has been working on.

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

Tabatha Blacksmith, Compliance Coordinator, and Ashley Miller, Customer Service Specialist, reported on the outreach to filers regarding the transition to email as the official means of communication for the agency.

Meeting adjourned at 2:45 p.m.

Approved September 27, 2018.