

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

Friday, March 13, 2009
State Capitol, Room 1525
Lincoln, Nebraska

Call to Order – Chairman Barry called the meeting to order at 9:01 a.m. and announced the location in the meeting room of a copy of the Public Meetings Law.

Roll Call –

- Andre Barry - Present
- Marilee Fredrickson - Excused
- John Gale - Excused
- Paul Hosford - Present
- Steve McCollister - Present
- Richard Nelson – Present
- Kim Quandt - Present
- Gary Rosacker - Present
- Judy Schweikart - Present

Approval of the Open Session Minutes of the January 23, 2009 Meeting - Chairman Barry referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Commissioner Nelson indicated that the Open Session Minutes of January 23, 2009 on page 3 reads 'No action was taken on the matter in closed'. The word 'session' was left out.

Motion by Nelson, second by McCollister, that the Open Session Minutes of the January 23, 2009 meeting be approved with the addition of the word 'session' on page 3 and that the Special Open Session Minutes of February 5, 2009 be approved - Roll Call Vote: Commissioners Barry, Hosford, McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (7-0-0).

Report on Late Filing Fees, including requests for relief – Jeff Wallin for Upper Republican Natural Resources District - Executive Director Daley indicated that this involved an annual campaign statement that was due on January 31, 2008 and filed February 12, 2008. The amount owed is \$300. Mr. Wallin had requested relief and the Executive Director had denied relief based

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upon the fact that Mr. Wallin had been required to pay late filing fees for the Post General Election statement that was due on January 13, 2007. Executive Director Daley noted that Mr. Wallin is from Imperial and was not expected at the meeting. The Commissioners were referred to a letter that Mr. Wallin sent dated February 25, 2009.

Discussion followed.

Motion by Quandt, second by McCollister, to deny the request for relief from late filing fees by Jeff Wallin - Roll Call Vote: Commissioners Barry, Hosford, McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (7-0-0).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley noted in his report that the terms of Commissioners Barry, Fredrickson and Rosacker were expiring in June. The Executive Director also noted that General Counsel Bill Howland would be retiring.

The Executive Director stated that the Commission's budget hearing was before the Appropriations Committee on the previous afternoon. Daley reported that he advised the Committee that it would be appropriate to fully fund the raises that were negotiated with the union. He also stated that he asked for a deficit appropriation to make a required payout in connection with Mr. Howland's retirement.

Discussion followed.

Executive Director Daley reported that in the area of litigation, the Commission entered into a settlement agreement with James Vokal on the issue of attorney's fees. The matter had been the subject of a special Commission meeting. The claim was approved by the State Claims Board and once a release is on file the payout will be made and the matter will be at an end.

The Nolan matter is pending on appeal before the District Court of Lancaster County.

The Executive Director stated that State action against Dr. Prokop is continuing and that General Counsel Howland would provide an update on the matter. General Counsel Howland reported that currently the matter is set for trial in June. The General Counsel also noted that he filed a motion for summary judgment.

Discussion followed.

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Executive Director Daley announced that the federal court action filed by Dr. Prokop has been dismissed. The appeal time has passed, and the Attorney General's Office is not aware of any appeal having been filed. It was noted however that because the appeal was dismissed without prejudice, there is nothing to prevent him from filing a new petition in federal court.

Legislative Update – The Executive Director referred the Commissioners to their packets. He reported that all the bills listed have had committee hearings. The only bill to come out of committee so far is LB 322. LB 322 is a nepotism bill introduced by Senator Avery. It is on General File before the Legislature, but has not been debated yet.

Executive Director Daley reported that all the other bills listed in the report are still in committee.

Discussion followed.

Resolution designating covered elective offices for 2010 under the CFLA – The Executive Director stated that the Commission under the Campaign Finance Limitation Act is required in odd numbered years to designate those offices that are covered elective offices under the CFLA. The designation is based upon a determination of how much money it is estimated will be in the CFLA fund in 2010. Currently there is \$691,000 in the CFLA Fund. In accordance with a statutory formula, the first \$150,000 is always designated for the Legislature. As the amount in the Fund increases additional offices are included. There has to be a minimum of \$377,000 to accommodate funding all potential covered elective offices with the exception of the Governor's office. In order to include the Governor's Office there has to be \$927,000 in the fund in 2010. Because this is not a statewide election year, the staff does not believe the agency will bring in late filing fees and civil penalties equal to \$235,000. Therefore, the CFLA fund will not reach \$927,000 by 2010.

Motion by McCollister, second by Schweikart, to adopt the resolution which would designate the Public Service Commission, Board of Regents of the University of Nebraska, State Board of Education, Auditor of Public Accounts, Attorney General, Secretary of State and State Treasurer as Covered Elective Offices in the 2010 Elections under the CFLA – Roll Call Vote: Commissioners Barry, Hosford, McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (7-0-0). A copy of Resolution #09-01 is attached.

Discussion followed.

Consideration and action on Agency Transition Plan – Chairman Barry indicated that Mr. Daley has included in the material a draft Agency Transition Plan that was prepared by Mr. McCollister, Ms. Schweikart, Ms. Quandt and Mr.

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Barry. This draft is based on a plan by Executive Director Daley. Barry stated that the plan is primarily designed to cover a transition in the Executive Director's position. However, it would also address transitions in the Deputy Director and General Counsel positions.

Discussion followed.

Motion by McCollister, second by Hosford, to approve with the proposed Agency Transition Plan with the amended language incorporating the paragraph #4 modification– Roll Call Vote: Commissioners Barry, Hosford, McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (7-0-0).

Discussion of process of election of officers – Executive Director Daley stated that at the June meeting the Commission will elect its officers. It is the Commission's responsibility to choose the process by which officers are elected. Daley stated that in recent elections a member of the Commission has been appointed to develop a slate of candidates for consideration and vote at the June meeting. Nothing in the process would preclude a nomination from the floor on the day of the vote.

Discussion followed.

Discussion of process for evaluation of Executive Director – Chairman Barry indicated that he had a form ready for use to evaluate the Executive Director. These forms would be sent out between the next meeting and the June meeting. That way there would be plenty of time to get them back.

Report of Conflicts Committee - Commissioner McCollister indicated that there are no issues to report.

Report of Executive Committee - Chairman Barry indicated that there was nothing to report at this time.

Break 9:50 a.m. – 10:00 a.m.

Closed Session - Motion by McCollister, second by Schweikart that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Barry, Hosford, McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (7-0-0).

The NADC went into Closed Session at 10:03 a.m.

The NADC returned to Open Session at 10:54 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated there were no actions of the Commission to be announced from Closed Session.

Recognition of the Service of General Counsel William Howland – Executive Director Daley recognized the service of William Howland at the end his career with the State of Nebraska and with the Accountability and Disclosure Commission. Daley described Howland’s service as a Deputy City Attorney for the City of Grand Island; a Deputy County Attorney in Hall County and a Deputy County Attorney in Scotts Bluff County. Daley further described Howland’s move to Chadron to go into private practice and subsequent election as Dawes County Attorney. He noted that in 1985 Attorney General Robert Spire called on Bill Howland to work in the Attorney General’s Office in the Criminal Prosecution Division. And before long, Howland became head of the division. Daley described how Howland became a mentor and advisor to a cadre of Assistant Attorneys General known as the ‘Road Warriors’. The ‘Road Warriors’ were a group of specialized attorneys who prosecuted specialized criminal cases all across the state of Nebraska. Daley recounted how during Howland’s time with the Attorney General’s Office, a period of some 20 years, Howland had been the go-to-guy for the county prosecutors and law enforcement officers. It would be safe to say Howland has been instrumental in the professionalization of law enforcement across the state of Nebraska. He has regularly consulted with law enforcement about investigatory techniques, legal issues and just plain insight. Daley noted very few people are aware that for many years Howland was Nebraska’s environmental law expert. Also, little known in Nebraska is that Howland is a nationally recognized expert on the law of extradition, and for years people from all over the country would call Bill Howland for advice on unusual issues that would come up in extradition cases. Daley stated that it would be hard to list all the cases Bill Howland has been involved in, but if you looked at any headline case in the past 20 years, Bill Howland either prosecuted it or was somewhere in the background providing advice or insight to the people that actually prosecuted or investigated it. Executive Director Daley continued that the thing he liked most about Bill is that with his distinguished career and all of his accomplishments, he always realized that most important was his wife Phyllis, sons Tyler, Brian and Aaron, and a gaggle of grandchildren who adore him.

Executive Director Daley concluded that the Commission has had the good fortune of having Bill Howland as its General Counsel since 2004 and he personally cherished the opportunity to work with Bill. Executive Director Daley yielded the floor to Chairman Barry.

Chairman Barry thanked Mr. Daley for his words about Bill Howland’s distinguished career in public service and his service both to the profession of law and to the people of the State of Nebraska. He stated his appreciation for Howland’s five years of that service with the Commission. Barry stated that there had been some interesting cases in the last several years, and Bill’s experience

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prosecuting cases has been of great value to the Commission. Barry thanked him on behalf of himself and all the members of the Commission for the expertise, the drive and the effort that Bill has brought to those cases. Barry expressed his appreciation to Howland for his willingness to call things as he saw them at Commission meetings.

Commissioner Barry presented General Counsel Bill Howland with an engraved clock as a token of the Commission's appreciation for his service.

General Counsel Howland thanked everyone and said he enjoyed the time with the Commission. He said he enjoyed every moment of his 42 year legal career. Howland said he enjoyed his professional relationship with Frank as well as the other staff. He said he knew when he was leaving the Attorney General's Office that he wasn't ready to quit, but he wanted some spot that had integrity. Howland stated that he found it here, and commended all for their efforts. Howland said he will watch with interest to see how the Commission moves forward with its endeavors. Howland again thanked the Commission

Commissioner Nelson next offered his gratitude. He said that as a person who has practiced law in Lincoln for a number of years, he can state that the name of Howland is pretty well known. Among lawyers it doesn't take long for the word to spread about a good litigator. Nelson stated that Bill Howland's reputation in the criminal field that is enormous. Commissioner Nelson lamented that he himself had never had the opportunity to work with him until joining the Commission. He said the word integrity is the word people think of when they think of Bill Howland. Commissioner Nelson thanked Bill for his outstanding service to the State and offered his congratulations.

Adjournment – Motion by Schweikart, second by Nelson, that the NADC adjourn. Roll Call Vote: Commissioners Barry, Hosford, McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (7-0-0).

Chairman Barry declared the meeting adjourned at 10:55 a.m.