

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

Friday, January 23, 2009

Ferguson Center
700 South 16th Street
Lincoln, Nebraska

Call to Order – Chairman Barry called the meeting to order at 9:00 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 - Present
John Gale - Present
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 December 5, 2008 Meeting - Chairman Barry referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Schweikart, second by McCollister, that the Open Session Minutes of the December 5, 2008 meeting be approved as presented - Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, McCollister, Quandt, Rosacker and Schweikart voted yes. Commissioner Nelson abstained. Motion carried (8-0-1).

Report on Late Filing Fees, including requests for relief - Executive Director Daley indicated that there were no applications for relief.

Title 4, Chapter 6, Rules and Regulations for Lobbying (Rule 6) – Chairman Barry stated that the court reporter would record this proceeding. See attached order.

a) Public Hearing on proposed amendments to Rule 6.

During the public hearing Executive Director Daley explained the proposed amendments and offered exhibits into the record. Chairman Barry invited members of the public to testify for or against the adoption of the proposed amendment. No one came forward to testify. Chairman Barry concluded the public hearing.

b) Consideration of adoption of proposed amendments to Rule 6.

Motion by Quandt, second by Fredrickson, for adoption of the proposed amendments to Rule #6 – Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (9-0-0).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – The Executive Director reported that Commissioners McCollister, Schweikart and he attended the annual Conference of Council on Government Ethics Laws held in Chicago in December.

Executive Director Daley referred the Commissioners to their copies of the budget status report and explained that six months into the current budget year the agency has expended about 43% of the agency budget. Deputy Director Mark Hinman addressed the Commission on the status of the budget process for the upcoming biennium. He reviewed the Governor's budget proposal and noted that it did not provide full funding for mandated raises or increased health care costs. Hinman explained that under such a proposal layoffs would be inevitable because personal services are such a big percentage of the agency budget. The Commission directed the staff to use the budget submitted by the Commission as a guide and to seek sufficient funding to avoid layoffs.

The Executive Director announced that the Post General Election Campaign Statements that were due January 13th are available for review on the NADC website. These statements cover the period of October 21st through December 31, 2008.

Executive Director Daley reported that in the matter of James Vokal's appeal, a decision by the Supreme Court in favor of Mr. Vokal was released on January 2, 2009. The matter is an agenda item for further discussion later in the meeting.

In the matter of Michael Nolan, Daley reported that Mr. Nolan has appealed the Commission's order to the District Court of Lancaster County.

Daley also reported on the status of NADC v. Prokop (State Court Action) and Prokop v. NADC (Federal Court Action)

Discussion followed.

Consideration and action re: Vokal v. NADC litigation and discussion.

Executive Director Daley explained that the Nebraska Supreme Court had ruled against the Commission in the Vokal matter. There is a remaining issue that is unresolved and may result in continued litigation. Litigation strategy being involved, the Commission discussed whether to go into closed session.

Motion by McCollister, second by Quandt to go into closed session for the purpose of discussing litigation strategy in the Vokal matter. Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (9-0-0).

Chairman Barry announced that the Commission would go into closed session for the limited purpose of discussing litigation strategy in the Vokal matter.

The NADC went into Closed Session at 9:26 a.m.

The NADC returned to Open Session at 9:55 a.m.

No action was taken on the matter in closed.

Discussion followed regarding a possible settlement agreement. The staff was instructed to pursue settlement options. The Commission expressed a willingness to hold a special meeting for the purpose of considering a propose settlement.

Legislative Update for Session 2009 – The Executive Director referred the Commissioners to their copies of the report in their packets.

LB 66 – Introduced by Senator Rogert. This bill increases from \$50 to \$100 per month the value of gifts that lobbyists and principals can give to officials and employees of the Legislative and Executive branches; the amount of currency a candidate may accept as a contribution; the amount a committee could accept without being required to keep record of the contributor; the value of gifts a candidate committee may give an individual in a calendar year; the amount of food and beverage an individual may give to a campaign without it being considered an in-kind contribution; and the amount of political merchandise that can be purchased from a campaign committee without it being considered a contribution from the purchaser under the NPADA. The Executive Director recommended that the Commission oppose this bill.

Jack Gould of Common Cause Nebraska addressed the Commission concerning LB 66.

Motion by Schweikart, second by Fredrickson, that the Commission oppose LB 66 – Roll Call Vote: Commissioners Barry, Fredrickson, Hosford,

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McCollister, Nelson, Quandt, Rosacker and Schweikart voted yes. Commissioner Gale abstained. Motion carried (8-0-1).

Chairman Barry noted that Commission McCollister needed to leave momentarily and directed that two agenda items be taken up out of order so that they could be considered while Commissioner McCollister was present.

Report of Conflicts Committee - Commissioner McCollister indicated that there is no report from the Committee.

Report of Executive Committee – Chairman Barry indicated that there are no issues to present at this time.

Chairman Barry stated to let the record show that Commissioner McCollister was excused from the meeting at 9:58 a.m.

The Commission returned to the consideration of legislation.

LB 638 – This bill was introduced by Senator Lautenbaugh. It would repeal the Campaign Finance Limitations Act and change the reporting requirements under the Nebraska Political Accountability and Disclosure Act. The Executive Director recommended that the Commission to take a neutral position.

Motion by Nelson, second by Fredrickson, that the Commission take a neutral position on LB 638 – Roll Call Vote: Commissioners Barry, Fredrickson, Nelson, Quandt, and Schweikart voted yes. Commissioners Gale, Hosford and Rosacker abstained. Motion carried (5-0-3).

LB 126 – A bill introduced by Senator Avery that would require the Governor, Lt. Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, and Attorney General and candidates to file personal financial disclosure statements. Executive Director Daley recommended that the Commission to take a neutral position.

LB 205 – A bill by Senator Nordquist that would require members of city councils, village boards, or members of pension boards within the city or village that maintains a pension program to take educational and ethics training. Executive Director Daley recommended the Commission to take a neutral position.

LB 322 – A bill introduced by Senator Avery that would prohibit nepotism and supervision of family members by executive branch officials and employees. The Executive Director recommended that the Commission support LB 322.

LB 363 – A bill by Senator Avery that would prohibit certain expenditures by campaign committees. The Executive Director recommended that the Commission take a neutral position.

LB 574 – A bill by Senator Rogert that would change reporting requirements under the NPADA for corporations, unions and certain associations. Executive Director Daley recommended that the Commission oppose LB 574.

LB 509 – A bill introduced by Senator Pirsch would redefine election period under the Campaign Finance Limitation Act. The Executive Director recommended that the Commission support this bill.

LB 626 – A bill introduced by Senator Karpisek that would make significant changes regarding the use of public resources by public officials and public employees for campaign purposes and other non-governmental purposes. The Executive Director recommended that the Commission oppose LB 626.

Motion by Barry, second by Fredrickson, that the Commission take a neutral position on LB 126, LB 205 and LB 363 – Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (8-0-0).

Motion by Barry, second by Fredrickson, that the Commission support LB 322 and LB 509 – Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (8-0-0).

Motion by Barry, second by Fredrickson, that the Commission oppose LB 574 and LB 626 – Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (8-0-0).

Discussion of Agency Transition Plan – Chairman Barry stated that the Executive Committee would consider the proposed Transition Plan at the next Commission meeting.

Motion by Schweikart, second by Fredrickson, to table the Transition Plan to the March 13, 2009 Commission Meeting - Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (8-0-0).

Closed Session - Motion by Hosford, second by Quandt that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (8-0-0).

The NADC went into Closed Session at 11:04 a.m.

The NADC returned to Open Session at 11:40 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley announced that the Commission had approved a Settlement Agreement in the matter of Robert Martin, case #08-11. By the terms of the settlement agreement the Commission found that there had been a violation of §49-1493 and that there is no civil penalty assessed. This action was taken with eight Commissioners concurring, none dissenting and none abstaining. The Executive Director also announced that the Commission issued an Order in the matter of Charles Witmer, case #08-06. The Commission found that the respondent had violated §49-1493 and assessed a civil penalty of \$1,000. This action was taken with eight Commissioners concurring, none dissenting and none abstaining.

Adjournment – Motion by Rosacker, second by Schweikart, that the NADC adjourn. Roll Call Vote: Commissioners Barry, Fredrickson, Gale, Hosford, Nelson, Quandt, Rosacker and Schweikart voted yes. Motion carried (8-0-0).

Chairman Barry declared the meeting adjourned at 11:40 a.m.