

OPEN SESSION

**MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION**

Friday, August 19, 2005

State Capitol, Room 1525

Lincoln, Nebraska

Call to Order – Acting Chairperson Bacon called the meeting to order at 9:00 a.m.

Roll Call –

Deborah Bacon: Present

Andre Barry: Present

John Bergmeyer: Present

Marilee Fredrickson: Present

John Gale, Secretary of State: Excused

Steve McCollister: Present

Kim Quandt: Excused

Gary Rosacker: Excused

Judy Schweikart: Present

Approval of the Open Session Minutes of the June 24, 2005 meeting – Acting Chairperson Bacon referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Bergmeyer, second by McCollister, that the Open Session Minutes of the June 24, 2005 meeting be approved. Roll call vote:

Commissioners Barry, Bergmeyer, Fredrickson, McCollister, and Schweikart voted yes. Commissioner Bacon abstained. Motion carried [5-0-1].

Report on Late Filing Fees, Including Request(s) for Relief from:

a) Lancaster County Democrats – Executive Director Daley indicated that the Lancaster County Democrats are seeking relief from late fees for their 2nd General and Post General Campaign Statements due April 25, 2005 and June 13, 2005, respectively, and filed on June 20, 2005. The amount of the late fees is \$925.00. The 2nd General Statement showed receipts of \$2,150 and expenditures of \$18,545.81, and the Post General Statement showed receipts of \$7,366 and expenditures of \$1,111.12. Relief was requested and denied by virtue of the expenditures being over \$5,000 for the 2nd General Statement and the receipts being \$7,366 for the Post General. Executive Director Daley told Commissioners that Jeff Kirkpatrick was present representing the Lancaster County Democrats. Mr. Kirkpatrick told Commissioners that the Lancaster County Democrat Party did neglect to file the Campaign Statements in a timely manner. He indicated that the late filings were a honest mistake and that there was no intent by the Lancaster County Democratic Party or any of its members to hide any of the contributions or any of the expenditures. Mr. Kirkpatrick also indicated that the Lancaster County Democrats does not have a pattern of late filing. No fines have been assessed by the Commission in the last two years. Mr. Kirkpatrick asked that the late fees be reduced proportionally considering the level of activity by the Lancaster County Democrats during the Lincoln City Election which he believed to be considerably low activity considering the low amount of expenditures and receipts. Executive Director Daley told Commissioners that it is before them to determine whether or not the request for relief falls within the statutory criteria or within the good cause shown statute.

There was no motion to reduce the late fees and so the late fees of \$950 stand.

b) Franklin Thompson for City Council Committee - Executive Director Daley indicated that the Franklin Thompson for City Council Committee is seeking relief from late fees for a Report of Late Contribution due May 2, 2005 and filed on June 20, 2005. The amount of the late fees is \$3,000. The Report showed receipts of \$15,000. Relief was requested and denied by virtue of the expenditures being over \$5,000. Executive Director Daley told Commissioners that Franklin Thompson was present representing his committee. Mr. Thompson

indicated that his committee did not pay enough attention to detail. He acknowledged that the report was late but the late report was not intentional and that the committee had nothing to hide.

There was no motion to reduce the late fees and so the late fees of \$3,000 stand.

c) Coast Casinos – Executive Director Daley told Commissioners that this involves the late filing of an Out of State Contribution Report. The report was due on November 10, 2004 and filed on April 1, 2005. The amount of late fees owed is \$97,000. The expenditures disclosed on the report amounted to \$970,000. Relief was requested and denied by virtue of the expenditures being over \$5,000. At the last meeting one of the points of discussion was how the Commission should interpret the statute for the purpose of determining the amount of late fees are. There are two issues before the Commission. One is determining how these late filing fees should be calculated. Secondly, having determined the proper amount of late filing fees, determine whether or not relief is granted to Coast Casinos. Michael Leahy spoke on behalf of Coast Casinos.

Leahy offered and the Commission received the following exhibits:

Exhibit #1 - Daley letter and memo dated July 17, 2005

Exhibit #2 – Leahy letter and memo dated August 9, 2005

Exhibit #3 – Legislative history of Laws, 1996, LB 1263

In addition, Leahy asked that today's proceedings and the proceedings of the June 24, 2005 meeting be made part of the record.

He indicated that he was not present to seek a reduction in late fees but a consideration of a miscalculation in late fees as he and Coast Casinos regard the statutes at issue.

Discussion followed.

The Commission requested that it be provided with a copy of Laws 1997, LB 49 as it appears in the Legislature's Session Laws and a copy of §49-1469.04 as it appears in the Nebraska Statutes.

Motion by McCollister, second by Schweikart to table further discussion until the Commission's October 7, 2005 meeting. Roll call vote: Commissioners Bacon, Barry, Fredrickson, McCollister, and Schweikart voted yes. Commissioner Bergmeyer voted no. Motion carried [5-1-0].

Consideration and action re enforcement of Commission Order in Executive Director v. Ray Mossey for Legislature and Ray Mossey, Candidate and Treasurer (04-46) – Executive Director Daley indicated that Mr. Mossey contacted him and that arrangements are being made with regard to the Commission's Order in this matter. Daley said at this time there is nothing further for the Commission to do.

Executive Director's Report – Executive Director Daley indicated that after a major election, the Commission publishes a summary of campaign statements that were filed for the last general and primary elections. He indicated that because of the public's access to NADC's website, the publication is not in as high demand as it was in previous years. He stated that if the print publication is discontinued, the report would be posted on the Commission's website. The summary of the 2004 election is the next report due for publication. No objection was voiced to the discontinuation of the print publication.

Report on Budget for Biennium Ending June 30, 2005 – Executive Director Daley indicated that NADC as an agency finished 15% under budget for Fiscal Year 04/05. Most of the savings is attributed to staff vacancies. Other savings were the result of grants secured for the Commission's electronic update projects.

Report of the Conflicts Committee – Acting Chairperson Bacon indicated that there was no report of the Conflicts Committee.

Report of the Executive Committee – Acting Chairperson Bacon stated that there was no report from the Executive Committee.

Closed Session - Motion by Barry, second by Fredrickson that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA and the provisions of the Public Meetings Law pertaining to the prevention of needless injury to the reputation of individuals. Roll call vote: Commissioners Bacon, Barry, Bergmeyer, Fredrickson, McCollister, and Schweikart voted yes. Motion carried [6-0-0].

The Commission went into Closed Session at 10:08 a.m.

The Commission returned to Open Session at 10:48 p.m.

Action on or Announcement of Closed Session Matters – Executive Director Daley announced actions taken in closed session. In Case 05-06, Mark Schultz v. Tracy Grothe, the Commission approved a Settlement Agreement with six Commissioners concurring, none dissenting and none abstaining which found a violation of 49-14,101.01 and assessed a civil penalty of \$350.

Adjournment – Motion by Bergmeyer, second by Fredrickson, that the NADC adjourn. Roll call vote: Commissioners Bacon, Barry, Bergmeyer, Fredrickson, McCollister, and Schweikart voted yes. Motion carried [6-0-0].

Chairperson Bergmeyer declared the meeting adjourned at 10:50 p.m.

