

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
Friday, June 7, 2013
State Capitol, Room 1524
Lincoln, Nebraska

Call to Order – Chairman Hosford 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 –

Kevin Brostrom – Present
Sean Conway - Present
John Gale – Present
Joseph Grant - Present
Paul Hosford - Present
Jan Mumm - Present
Richard Nelson – Present
Timothy Schulz - Excused
Brad von Gillern - Present

Approval of the Open Session Minutes of the April 19, 2013 Meeting - Chairman Hosford referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Motion by Conway, second by Nelson, that the Open Session Minutes of the April 19, 2013 meeting be approved as presented - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Nelson, and von Gillern voted yes. Commissioner Mumm abstained. Motion carried (7-0-1).

Report on Late Filing Fees, including requests for relief – Tom Barrett for OPPD; Tom Barrett, Candidate – Executive Director Daley indicated that the matter is a request for relief from late filing fees and that Mr. Barrett and his attorney, Mr. J.L. Spray, are present. Late Filing fees were assessed against Mr. Barrett’s campaign committee in connection with the late filing of its Statement of Organization and its 1st, 2nd, and Post General Election Campaign Statements. These late filings resulted in the assessment by statute of late filing fees in the

Open Session Minutes
June 7, 2013

total amount of \$2,800. The Executive Director further explained how the late fees were calculated. There are four criteria used for granting relief. They are:

- 1) There no intent to file late.
- 2) The filer has not been required to pay late filing fees for two years prior to the time the filing was due.
- 3) The late filing reflects less than \$5,000 in receipts or expenditures.
- 4) The granting of relief would not frustrate the purposes of the NPADA.

Executive Director Daley indicated that a late fee of \$550 was assessed as to the late filing of the Statement of Organization. The statement is not intended to reflect receipts or expenditures and the \$5,000 criterion would not apply.

J.L. Spray, Attorney-at-Law, appeared for Tom Barrett, Candidate for OPPD and addressed the Commission concerning the request from late filing fees.

Tom Barrett, Candidate for OPPD, addressed the Commission concerning his request from late filing fees.

Discussion followed.

Motion by Grant, second by Nelson, that the Commission waive the late fee of \$550 with regard to the filing of Statement of Organization and that the total late fee for all of the other violations be \$1,500 - Roll Call Vote: Commissioners Conway, Grant and Nelson voted yes. Commissioners Brostrom, Hosford, and Mumm voted no. Commissioners Gale and von Gillern abstained. Motion did not pass (3-3-2).

Discussion followed.

Motion by Nelson, second by Gale, that the Tom Barrett for OPPD Committee be granted relief pursuant to statute from the late fee for the Statement of Organization on the grounds that all statutory requirements have been met – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Mumm, Nelson voted yes. Commissioner von Gillern abstained. Motion carried (7-0-1).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley reported on the budget, and noted that it looked very good. However, Mr. Daley noted that the final verdict on the budget will not be known until sometime in July.

The Executive Director indicated that a report was made by the National Institute on Money in Politics which issued a 50 state report on disclosure requirements for independent spending. The Institute gave Nebraska an "F". When members of the press inquired about this rating it was explained that Nebraska did very

Open Session Minutes
June 7, 2013

well on independent expenditures, but not at all on issue ads or electioneering expenses as Nebraska currently has no laws requiring disclosure on “issue ads”. The Executive Director pointed out that this would require the Legislature to address this matter. The Commission has supported legislation on this issue in the past.

Discussion followed.

Legislative Update – The Executive Director next gave the legislative update of bills.

LB 27 – LB 27 is a bill introduced by Senator Hadley. It was passed and will provide some beneficial opportunities regarding the internship requirements for those seeking to become certified public accountants.

LB 79 – LB 79 is a bill introduced by Senator Avery. The Legislature passed LB 79 which formally repeals the Campaign Finance Limitation Act. LB 79 will transfer \$639,000 from the CFLA Fund to the NADC Cash Fund to be used for the development of an electronic filing system.

Discussion Followed.

Consideration and action on commencement of rulemaking process for Title 4, Chapter 10 Rules and Regulations Governing Campaign Practices under the Nebraska Political Accountability and Disclosure Act and the Campaign Finance Limitation Act - Executive Director Daley indicated that with the repeal of the Campaign Finance Limitation Act, many provisions of Commission Rule 10 become obsolete since the rule effectuates the provisions of the CFLA and certain provisions of the Accountability Act. The Executive Director asked the Commission for a motion to commence the rulemaking process. The staff will spend the summer developing a draft of a new Commission Rule 10. The plan is to present a draft of new Rule 10 in September which would be used during the formal rulemaking process. Following this, a public hearing would be set before the Commission. If it were decided to be appropriate, the Commission would adopt it, and the new rule would go to the Attorney General for review and on to the Governor for approval. Once approved by both, it would then be filed with the Secretary of State and thereafter become law.

Discussion followed.

Motion by Conway, second by Mumm, to begin the process of rulemaking for Title 4, Chapter 10 – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Mumm, Nelson, and von Gillern voted yes. Motion carried (8-0-0).

Open Session Minutes
June 7, 2013

The NADC recessed at 10:20 a.m.

The NADC reconvened at 10:25 a.m.

Evaluation of Executive Director – Chairman Hosford thanked Commissioner Brostrom for undertaking the process for evaluation of the Executive Director. Commissioner Brostrom indicated that everyone on the Commission participated.

Jack Gould, representing Common Cause of Nebraska, expressed his appreciation for the NADC Staff and Executive Director Daley.

Discussion followed.

Motion by von Gillern, second by Brostrom, that the Commission accept the evaluation of the Executive Director as presented - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Mumm, Nelson, and von Gillern voted yes. Motion carried (8-0-0).

Closed Session - Motion by Brostrom, second by Conway, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Mumm, Nelson, and von Gillern voted yes. Motion carried (8-0-0).

The NADC went into Closed Session at 10:44 a.m.

The NADC returned to Open Session at 11:15 a.m.

Commissioner von Gillern was excused at 11:15 a.m.

Consideration and action on the salaries of General Counsel, Deputy Director and Executive Director - Executive Director Daley indicated that the Legislature this year appropriated for all state employees a salary increase of 2.25% to take effect July 1st. Most of the employees of the Commission are in the classified personnel system or are part of a labor contract, meaning that the 2.25% increase is automatic and no action would be required by the Commission. The Executive Director explained that the Deputy Director and Executive Director are not classified employees and are not subject to the automatic increase. Commission action is required. Mr. Daley recommended a 5% salary increase for Deputy Director Mark Hinman for his exceptional work at the agency. The Executive Director further explained that General Counsel is also a classified personnel position and would receive a 2.25% salary increase. However, it was noted that Mr. Danberg has done an excellent job as General Counsel, citing several instances of his exemplary service for the Commission. It was also noted that Mr. Danberg's position is classified as an Attorney III position. He is currently being paid at a level which is below the midpoint for the position. The Executive Director recommended a 5% salary increase for General

Open Session Minutes
June 7, 2013

Counsel Danberg. Finally, Daley noted that he has tried to keep the salaries of the Deputy Director and General Counsel as equal as possible.

Discussion followed.

Motion by Gale, second by Brostrom, that the Commission approve a 5% salary increase for General Counsel, Deputy Director and Executive Director beginning July 1st - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Mumm, Nelson, voted yes. Motion carried (7-0-0).

Report of Conflicts Committee – Commissioner Mumm indicated that there were 13 Potential Conflict of Interest Statements received.

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

Election of officers – Commissioner Nelson stated that he prepared a slate of officers. He proposed Commissioner Paul Hosford, Commissioner Kevin Brostrom and Commissioner Joseph Grant as Chairman, Vice-Chairman and Secretary, respectively. They have all agreed to serve the Commission for the coming year. Chairman Hosford inquired if there were other nominations. There were none.

Discussion followed.

Motion by Gale, second by Mumm, that the Commission approve and accept Paul Hosford, Chairman, Kevin Brostrom as Vice-Chairman and Joseph Grant as Secretary - Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Mumm, and Nelson voted yes. Motion carried (7-0-0).

Action on or Announcement of Closed Session matters - Executive Director Daley indicated that there were two matters to report. In the matter of Tracey Landenberger, Case #12-06, the Commission approved a settlement agreement by which it found a violation §49-14,101.02 and a violation of §49-14,101.01. A civil penalty of \$750 was assessed. The settlement agreement was approved with eight commissioners concurring, none dissenting and none abstaining. In the matter of Rick Sheehy, Case #13-02, the Commission approved a settlement agreement by which it found a violation of §49-14,101.01 and assessed a civil penalty of \$1,000. The settlement agreement was approved with eight commissioners concurring, none dissenting, and none abstaining.

Recognition or the service of Commissioner Richard Nelson – Chairman Hosford thanked Commissioner Nelson for his service on the Commission. He described Commissioner Nelson as meticulous with a great sense of acuity. Chairman Hosford stated that Commissioner Nelson had his respect as a Commissioner and as a person.

Open Session Minutes
June 7, 2013

Commissioner Gale thanked Commissioner Nelson stating that he has known him for 40 years. He spoke of working with him in Washington D.C. Commissioner Gale stated that Dick Nelson had been his boss, a mentor and a great friend. Gale presented Nelson with a Secretary of State Citation and a paperweight bearing the Great Seal of Nebraska. He thanked Commissioner Nelson for all of his service to the State of Nebraska.

Executive Director Daley stated that Commissioner Nelson has been with the Commission since August 2007. The Executive Director expressed his belief that it has been the Commission's good fortune to have Dick Nelson as a member. He described Nelson's keen understanding of the workings of state government, his familiarity with the Accountability Act, his familiarity with the dynamics of the campaigns, and his expertise in administrative law. Executive Director Daley presented Commissioner Nelson with an engraved clock as a memento of the Commission's appreciation for his service to the Commission.

Commissioner Nelson expressed his thanks to everyone, and stated that it was a real pleasure to serve.

Adjournment – Motion by Nelson, second by Grant, that the NADC adjourn.
Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, and Mumm, and Nelson voted yes. Motion carried (7-0-0).

Chairman Hosford declared the meeting adjourned at 11:42 a.m.