

OPEN SESSION
MINUTES OF THE MEETING OF THE
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
Friday, June 9, 2017
State Capitol, Room 1525
Lincoln, Nebraska

Call to Order – Chairman Schulz 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 –

Sean Conway – Present
Jeffery Davis - Present
Matthew Enenbach – Present
John Gale – Present
Douglas Hegarty - Present
Andrew Loudon - Present
Jeffery Peetz – Excused for Late Arrival
Timothy Schulz - Present
James Ziebarth – Excused for Late Arrival

Approval of the Open Session Minutes of the April 21, 2017 Meeting – Chairman Schulz referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

Executive Director Daley stated that Commissioners Peetz and Ziebarth were excused for late arrival.

Commissioner Peetz was present at 9:03 a.m.

Motion by Conway, second by Davis that the Open Session Minutes as of the April 21, 2017 meeting be approved as presented - Roll Call Vote: Commissioners Conway, Davis, Gale, Loudon, Peetz and Schulz voted yes. Commissioner Enenbach and Commissioner Hegarty abstained. Motion carried (6-0-2).

Report on late filing fees and requests for relief: The Executive Director indicated that there were no requests for relief.

Open Session Minutes
June 9, 2017

Consideration and action on proposed Advisory Opinion #202 requested by Larry Dix, Nebraska Association of County Officials relating to conflicts of interest – Executive Director Daley indicated that this is a proposed advisory opinion based upon a request from Larry Dix of the Nebraska Association of County Officials. Mr. Dix was also present to give a presentation.

The Executive Director deferred to General Counsel Danberg for further explanation.

General Counsel Danberg referred the Commission members to their packets for the proposed Advisory Opinion #202.

- 1) County Board member vote for her or himself for county board chair without violating the conflict provisions of §49-1499.03?
- 2) If the answer to 1) is yes, is the answer different if the county board chair would receive additional compensation for serving as county board chair as provided for in a county's salary resolution?
- 3) If an individual is allowed to vote for him or herself, would he or her be required to notify the Accountability and Disclosure Commission of such action pursuant to Revised Statute 49-1499.03(1)(c)?

Discussion followed.

Larry Dix, the Executive Director for the Nebraska Association of County Officials appeared and gave a presentation.

Discussion followed.

Chairman Schulz asked if there were comments from the public as to the proposed opinion. No one came forward to comment.

Motion by Peetz, second by Conway, to adopt proposed Advisory Opinion #202 – Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (8-0-0).

Executive Director's Report (includes personnel activity, budget status, budget process and litigation status) – Executive Director Daley indicated that Commissioner Schulz's term expires on June 30th. Mr. Schulz's successor will be selected by the Secretary of State John Gale from a list of candidates supplied by the Chairman of the Nebraska Republican Party.

The Executive Director reported on the budget indicating that the agency was doing pretty well 11 months into the current fiscal year with expenditures at a low. The Director indicated that the Commission had also been appropriated money for the upcoming Biennium and from the General Fund there have been some deductions in the amounts that have been appropriated. However, it did seem to be in-line with other state agencies.

Open Session Minutes
June 9, 2017

Executive Director Daley next updated the Commission about the agency's impending move out of the Capitol as a part of the HVAC heating and air-conditioning project. This project calls for state agencies that currently occupy the tower to move out as to accommodate the senators and their staff displaced when their respective office quadrant is closed for the HVAC project. The Commission will be moving to the Center Terrace Building at 1225 L Street, which is directly south of the Cornhusker Marriott. Mr. Daley further reported that the state would first pay for the lease on the building on September 1st, and that certain Legislative divisions would move in during October. He noted that there are no set dates for this move other than sometime in September.

Discussion followed.

Executive Director Daley reported that in regards to the Electronic Filing Project. That it was now clear, that the project as planned would not be completed by the end of the current fiscal year on June 30th. Mr. Daley explained that when the Commission submitted their budget back in August 2016, it had not contemplated that the project would go beyond the Fiscal Year. This wrinkle would mean that even though the Commission had the money to pay for project services, it did not have the authority to spend it after the Fiscal Year. The Director indicated that the State Accounting Division had been consulted to what funds could be encumbered and what funds could not be encumbered. They were clear that only deliverables could be paid for on or before June 30th. Mr. Daley further indicated that after conversation with the State Materiel Division (whom oversee contracts) and the NADC. Together, they could produce an addendum to the current contract by which if the vendor agreed, the project work could continue into the next Fiscal Year. An application was submitted for deficit appropriation to complete the project. Explaining this would not be asking for more money, it would ask for the authority to be able to spend the available money.

Discussion followed.

The Executive Director indicated that Lobbyist and Principal 1st and 2nd Quarterly Reports and Lobbyist Statements of Activity that have been filed are available to the public for review on the Commission website. Mr. Daley indicated that the Post General Campaign Statements for the Lincoln and Omaha City Elections that have been filed are also available for review.

The Executive Director indicated that in the matter of litigation he would defer to General Counsel Danberg.

The General Counsel indicated that regarding the Patrick Shannon case, The Commission continues to try to collect on the 2008 judgement against Mr. Shannon. Mr. Danberg indicated that garnishment of the Respondent's salary did not support this type of collection. Danberg reported that interrogatories had

Open Session Minutes
June 9, 2017

been sent and a Request for Production of the Respondents tax returns. It was explained that after the examination of this information, a Writ of Execution would follow.

Legislative Update - The Executive Director gave the Legislative Update of bills.

LB 63 – A bill by Senator Hansen which as amended eliminates the sale tax exemption on prepared food ingredients at events sponsored by committees and regulated by the NPADA.

LB 85 – A bill introduced by Senator Blood would prohibit an individual that owes civil penalties or interest to the Commission from appearing on the ballot or being appointed to elected office or certain other offices.

Discussion followed.

LB 151 – A bill by Senator Stinner. The relevant part of this bill provides that the Auditor of Public Accounts would be able to share work papers with specified state agencies including the NADC.

LB 209 – This bill by Senator Watermeier concerns the Administrative Procedures Act. Concerns with the initial bill have been amended out and the Commission is no longer concerned with LB 209.

LB 451 – A bill by Senator Murante that changes various provisions that correct gaps in the filing of Statements of Financial Interest for elections.

LB 252 – This bill by Senator Crawford that did not get out Committee. It dealt with the concept of electioneering communications, or issue ads.

The Executive Director explained the procedure for evaluation.

Consideration and action; evaluation of Executive Director and setting of salary – Chairman Schulz stated that unless Mr. Daley had anything else for Open Session that he would entertain a motion to go into Closed Session to discuss a personnel matter.

Discussion followed.

Motion by Conway, second by Gale, to go into Closed Session for the purpose of discussing the evaluation and setting salary of the Executive Director, the discussion in Closed Session shall be for the purpose of avoiding needless injury to the reputation of individuals - Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (8-0-0).

Open Session Minutes
June 9, 2017

The NADC went into Closed Session. 9:36 a.m. The staff was excused for deliberation, and only the Commissioners remained in the room.

The NADC returned to Open Session 10:04 a.m. Discussion followed.

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

Motion by Peetz, second by Hegarty, that the Commission accept the evaluation of the Executive Director as compiled and presented by Mr. Schulz – Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (8-0-0).

Motion by Conway, second by Enenbach, that the Commission approve a 1% salary increase for the Executive Director beginning July 1, 2017 - Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Hegarty, Loudon, Peetz, Schulz voted yes. Motion carried (8-0-0).

Executive Director Daley expressed his gratitude for the kind words and salary increase.

Report of Conflicts Committee – Chairman Schulz indicated that there was nothing to report.

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

Closed Session - Motion by Conway, second by Davis, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (8-0-0).

The NADC went into Closed Session at 10:07 a.m.

The NADC returned to Open Session at 10:47 a.m.

Action on or Announcement of Closed Session matters - Executive Director Daley indicated in the matter of Patrick Cunningham case #17-06 the Commission approved a settlement agreement with eight Commissioners concurring, none dissenting, and none abstaining. The Commission found there was a violation of the NPADA §49-14,103.01(5) and assessed a civil penalty of \$500.

Election of Officers – Chairman Schulz indicated that he had prepared a slate of officers. He proposed Commissioner Conway, Commissioner Loudon and Commissioner Enenbach as Chairman, Vice-Chairman and Secretary,

respectively. They have all agreed to serve to Commission for the coming year. There were no other nominations.

Motion by Peetz, second by Davis, to approve and accept Sean Conway as Chairman, Andrew Loudon as Vice-Chairman and Matt Enenbach as Secretary – Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (8-0-0).

Recognition of the service of Commissioner Timothy Schulz – Executive Director Daley stated that it was time to give his annual “I hate June” speech, and time to say goodbye to Chairman Tim Schulz. Mr. Daley explained that Mr. Schulz was appointed by Secretary of State John Gale on July 1, 2011, and Tim’s first meeting was in August 2011. This meeting turned out to be quite memorable. There had been an Advisory Opinion requested by Duane Acklie wanting to form a committee that would support the activities of the 1st Lady. And the discussion of an Attorney General’s Opinion regarding the Campaign Finance Limitation Act, which was the program administered by the Commission to provide public funds to candidates for public office. There were a lot of people and things going on all churning about at the meeting. So at the end of that meeting Mr. Daley noted that Tim asked. Is it always like this? Where then the Executive Director answered back coolly ‘yes’. Observing that this answer did not faze the new Commissioner one bit, a future testament to his service on the Commission as Chairman Schulz had always been calm, and deliberate in his manner leading the Commission through the process. Which is exactly what was needed a steady hand, a steady hand that would be missed. The Executive Director presented Chairman Schulz with an inscribed clock as token of the Commission’s esteem.

Chairman Timothy Schulz thanked Executive Director Daley and the Commission.

The Secretary of State John Gale next took the opportunity to address Chairman Schulz and the Commission. Secretary Gale explained that four appointments are made by the Secretary of State and four appointments by the Governor. Not an easy thing to do to find people to serve on the Accountability and Disclosure Commission because of its many restrictions. Mr. Gale described him as attentive, loyal, conscientious, dedicated and judicious. Secretary of State Gale presented Chairman Schulz with a Service Citation, a paper weight bearing the Great State of Nebraska for exemplary service to the Nebraska Accountability and Disclosure Commission and the citizens of the State of Nebraska.

Photographs were taken to document the presentation event.

Adjournment – Motion by Enenbach, second by Conway, that the NADC adjourn. Roll Call Vote: Commissioners Conway, Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Schulz voted yes. Motion carried (8-0-0).

Open Session Minutes
June 9, 2017

Chairman Schulz declared the meeting adjourned at 11:01 a.m.