

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

**Friday, December 4, 2009**

**State Capitol, Room 1524**

**Lincoln, Nebraska**

**Call to Order** – Chairman McCollister 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
- John Gale – Present
- Joseph Grant - Present
- Paul Hosford - Excused
- Steve McCollister – Present
- Jan Mumm - Excused
- Richard Nelson – Present
- Kim Quandt - Present
- Judy Schweikart - Present

**Approval of the Open Session Minutes of the October 16, 2009 Meeting** - Chairman McCollister referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

**Motion by Schweikart, second by Grant, that the Open Session Minutes of the October 16, 2009 meeting be approved as presented** - Roll Call Vote: Commissioners Brostrom, Gale, Grant, McCollister, Nelson, and Schweikart voted yes. Commissioner Quandt abstained. Motion carried (6-0-1).

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

**Executive Director's Report (includes personnel activity, budget status, budget process and litigation status)** – Executive Director Daley indicated there were very good things to report. That Commissioners Grant and Mumm had their confirmation hearings before the Government, Military & Veteran Affairs Committee during the Special Session. The Committee issued a report that recommended their confirmation, and on November 10<sup>th</sup> both Commissioners Grant and Mumm were confirmed to the Nebraska Accountability & Disclosure Commission.

Open Session Minutes  
December 4, 2009

The Executive Director reported that Commissioners Hosford, McCollister, Nelson and Schweikart had all represented the Commission at a variety of hearings before the Government, Military & Veterans Affairs Committee, concerning LR 163. Legislative Resolution 163 is a study of the Commission's activity, enforcement process and the laws that are enforced.

The Executive Director reported that General Counsel Danberg made a presentation at the South Platte Natural Resources District in Sidney.

Executive Director Daley stated the budget information is pre-special session information and is not very useful as of yet. It was noted the effects of the Special Session on the budget are a separate agenda item.

The Executive Director announced that General Counsel Danberg would be representing the Commission at the annual Conference of Governmental Ethics Laws this year in Phoenix.

Discussion followed.

Executive Director Daley reported that in the area of litigation, regarding the Michael Nolan case. The District Court upheld all of the findings of the Accountability & Disclosure Commission. However, it did reduce from \$1,000 to \$50 the Civil Penalty assessed by the Commission. Mr. Daley noted that November 30<sup>th</sup> was the appeal deadline for Mr. Nolan and there has been no indication that there was an appeal. Also, that the Assistant Attorney General who handled the appeal on behalf of the Commission had no indication of an appeal.

The Executive Director stated that in the matter of Dr. Prokop to collect late filing fees, the Commission received a judgment in District Court. Dr. Prokop appealed to the Court of Appeals and the Commission had been advised that Mr. Prokop's brief had been rejected as non compliant with court rules. He was given a new date of December 11<sup>th</sup> to file a new brief. Mr. Prokop represents himself pro se, and the Court is giving him a bit of flexibility.

Discussion followed.

**Report on action of Legislature in 2009 Special Session** – Executive Director Daley reported that the Legislative Special Session adjourned on November 20th. The purpose of which was to adjust the state budget and the various predicted revenue short falls. The Governor submitted budget adjustment proposals, which were considered and acted upon by the Legislature. The effect to the Commission is that for the current fiscal year the Commission's General Fund Appropriation was reduced by 2.5%. The Legislature transferred \$4,000 from the NADC Cash Fund to the General Fund and took roughly \$21,500 from

the CFLA Cash Fund, and put this in the General Fund. The Executive Director indicated that for the next fiscal year, it would take 5% out of the NADC General Fund Appropriation. The amount of \$8,400 would be taken out of the NADC Cash Fund, and \$48,000 out of the CFLA Cash Fund. The Executive Director further pointed out that the Governor's proposal reduced the NADC's authority to use the cash fund which remained unspent. The Commission asked the Legislature to restore that spending authority. The Legislature agreed to do this. The second thing that the Commission asked the Legislature was to place a sunset provision on the transfer funds from the NADC Cash Fund to the General Fund. The Legislature agreed to do this, but declined to place a sunset provision to the CFLA Cash Fund.

**Report of committee on revision of Commission Policy Manual** – Executive Director Daley indicated that years ago the Commission had a policy manual. It was occasionally updated but eventually fell into disuse. The Executive Director explained that litigation in the last two years had caused concern that there was something out there that was called the Commission Policy Manual. Something which really did not match how things are done now and in fact referenced statute that no longer existed or quoted statute that had substantially changed. General Counsel Danberg at this point explained that the Executive Committee had held a meeting on November 17<sup>th</sup>. Commissioner Schweikart and General Counsel Danberg met at Kutak Rock Law Firm and Commissioners Hosford and McCollister joined in on the phone. General consensus from the meeting was that there should be a new manual, and should be titled the Commissioner's Handbook. Portions that might be deleted from the handbook include a number of appendices that are already available on the NADC website. Also, the History of the Commission with the listing of all the names and dates of past and present commissioners would be moved to the NADC website under History of the Commission. The statutes governing the Accountability & Disclosure Commission would not be included in the handbook, but made available at every meeting. These are the essential things agreed to at the meeting.

Discussion followed.

**Motion by Schweikart, second by Quandt, that the Commission find that the Commission Policy Manual is out of date and to the extent that its provisions differ from state statute or the Commission's formal rules and regulations that the statute or formal rules and regulations take precedence over the provisions of the Policy Manual** - Roll Call Vote: Commissioners Brostrom, Gale, Grant, McCollister, Nelson, Quandt, and Schweikart voted yes. Motion carried (7-0-0).

36.4

**Discussion of upcoming Legislative Session and proposed legislation** – Executive Director Daley reported that legislation which was introduced during the last legislative session carries over to the current upcoming Legislative Session. The Commission has already taken position on all of those bills. In

regards to LR 163, the Executive Director stated he has been advised of the possibility of other legislation that will be introduced, the first of which is a proposal to require the Clerk of the Legislature to include in the Legislative Journal a copy of any potential conflict of interest statements filed by members of the legislature. A second would be to require disclaimers on materials produced by independent committees to include a statement, that they are not authorized by any candidate. And three, a number of lobbyists expressed concern with the \$50 gift limit. There was discussion that the gift limit should be raised to \$75 or \$100 and that maybe to exempt more things from the \$50 limit. From this discussion a new exemption emerged that would apply to memorials for funerals and recognition plaques that could have a value up to \$100. On a separate matter which would provide greater disclosure when private entities are giving money to governmental entities. This would concern a private entity, and say a foundation that was created to support that entity. The affect of this proposed legislation is that the entity would disclose in its annual financial report and would have to line item, to show money with a value over \$1,000 going into that governmental body. And then there would have to be a separate line item to show how the money was used. There would also have to be a separate provision which would deal with the Transparency Act which affects state governmental entities and what public officials must show on their Statement of Financial Interests. The Executive Director explained that the Legislative Session begins January 6<sup>th</sup>, and the next meeting will be January 22<sup>nd</sup>. And that there may be legislation that will need to be addressed, so the two issues are that the staff be able to consult with the Executive Committee in regards to legislation. And the second issue, that the staff have the authority to work with and give technical assistance to senators and legislative staffers. The Executive Committee would then report to the Commission at the January meeting. The Commission agreed to proceed as in the past.

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

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

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

The NADC went into Closed Session at 9:50 a.m.

The NADC returned to Open Session at 10:06 a.m.

**Action on or Announcement of Closed Session matters** - Executive Director Daley indicated there were two matters to report from Closed Session. In the

Open Session Minutes  
December 4, 2009

matter of Paul Eurek case 08-12, the Commission approved a settlement agreement in which it found Mr. Eurek had violated section 32.1604.01 of the CFLA and it provided for a civil penalty of \$750. This action was taken with seven Commissioner's concurring, none dissenting, and none abstaining. In the second matter, in the matter of Nebraskans for Fiscal Accountability, Craig Safranek, Treasurer case 09-06. The Commission found that there was a violation of 49.4914-62 the Commission approved the settlement agreement which called for a late filing fee of \$750. This action was taken with seven Commissioner's concurring, none dissenting, and none abstaining.

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

Chairman McCollister declared the meeting adjourned at 10:09 a.m.