

**OPEN SESSION**  
**MINUTES OF THE MEETING OF THE**  
**NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION**  
**Friday, December 7, 2012**  
**State Capitol, Room 1524**  
**Lincoln, Nebraska**

**Call to Order** – Chairman Hosford called the meeting to order at 9:05 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 - Present  
Brad von Gillern - Present

**Approval of the Open Session Minutes of the October 26, 2012 Meeting** - Chairman Hosford referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

**Motion by Brostrom, second by Mumm, that the Open Session Minutes of the October 26, 2012 meeting be approved as presented** - Roll Call Vote: Commissioners Brostrom, Conway, Hosford, Mumm, Nelson, Schulz and von Gillern voted yes. Commissioners Gale and Grant abstained. Motion carried (7-0-2).

**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 reported that the Commission is now 4 months into the current budget year and has expended approximately 28% of its budget.

Open Session Minutes  
December 7, 2012

The Executive Director indicated that there is currently \$896,000 in the Campaign Finance Limitation Act Cash Fund.

Executive Director Daley reported that he and Mr. Danberg attended the Council on Governmental Ethics Laws (COGEL) conference in Columbus, Ohio from December 2<sup>nd</sup> through December 5<sup>th</sup>. A report of the conference will be given at the January Commission meeting.

The Executive Director reported that the electronic filing system for lobbyists and principals was launched on November 28<sup>th</sup> and appears to be successful so far. This program was developed by the Clerk of the Legislature's IT staff. Executive Director Daley indicated that the Commission will pay 5% to Nebraska.gov for the use of its portal to receive the lobbyist registration fees. Mr. Daley further explained that Nebraska.gov pays the credit card companies 2 1/2%, so its profit would be 2 1/2%.

Executive Director Daley indicated that lobbyist and principal reports for the 3<sup>rd</sup> Quarter were due October 30<sup>th</sup> and are available on the NADC website.

The Executive Director reported that the 2<sup>nd</sup> General Election Campaign Statements were due on October 29<sup>th</sup> and those filed are available on the NADC website.

The Post General Election Campaign Statements will be due on January 15<sup>th</sup> and the Annual Campaign Statements will be due on January 31, 2013.

Executive Director Daley reported that in the matters of Roland Skinner and Les Tlustos, the decisions of the Commission were appealed to the District Court of Lincoln County. Mr. Daley noted that the appeal was in Lincoln County because the hearing took place in North Platte. A motion to allow the Northwest Public Power District and board member Gary Fucher to intervene was granted. General Counsel Danberg explained that once the matter goes to the District Court, the Commission is represented by the Attorney General.

Discussion followed.

**Discussion of Legislative Session, legislation and Commission process –** Executive Director Daley reported that the next legislative session begins on January 9<sup>th</sup>. New legislation may be introduced during the first 10 days session days. Daley noted that legislation would likely be introduced to formally repeal the Campaign Finance Limitation Act. Since the CFLA had been found to be unconstitutional, it would be appropriate to remove it from the books.

The Executive Director indicated that legislation to reduce the reporting trigger of the NPADA has already been drafted. Currently, committees report the names

Open Session Minutes  
December 7, 2012

and addresses of those who contribute more than \$250. The proposed new trigger amount would be \$100 or more.

Executive Director Daley reported that legislation will probably be introduced calling for mandatory electronic filing for candidates and other entities. Reports filed electronically filing can be posted to the website immediately. The need for manual data entry is eliminated.

The Executive Director next reported that a number of State Senators had expressed an interest in legislation on electioneering or issue ads. Typically, these ads focus on issues concerning the candidate such as his or her voting record. The ad urges the reader, viewer or listener to contact the candidate to either praise or criticize the candidate on the issue. Issue ads do not mention an election or urge a vote for or against. It was pointed out that the U.S. Supreme Court has ruled that electioneering is different from campaign spending. Disclosure of this activity still can be mandated. However, separate legislation is required.

The Executive Director indicated that each session seems to bring new proposals concerning the Administrative Procedures Act. The APA is the process by which state agencies adopt rules and regulations. The Commission should monitor all legislation that would amend or modify the APA to insure it continues to be workable.

Finally, the Executive Director recommended that the Commission staff be authorized to take direction from the Executive Committee as to legislation. Daley explained that the Commission staff is often required to react to legislation and can't wait until the next Commission meeting for direction. He also recommended that the staff be authorized to provide consulting and drafting assistance to members of the Legislature regarding legislation which could affect the Commission. .

Discussion followed.

**Motion by Grant, second by Conway, that the staff of the NADC be authorized as necessary in order to timely respond to legislative developments between meetings of the Commission to consult with the Executive Committee with regard to those developments, and to further be authorized to provide consulting and drafting assistance as requested by members of the Legislature** – Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Mumm, Nelson, Schulz, and von Gillern voted yes. Motion carried (9-0-0).

**Report on Commission process for investigations** – Executive Director Daley provided a report on the process followed by the Commission and the Commission staff as to investigations and complaints. It included a description of

Open Session Minutes  
December 7, 2012

the civil jurisdiction of the Commission and the criminal jurisdiction of the Attorney General. There was also a description of the confidentiality provisions of the NPADA.

Discussion followed.

**Report of Conflicts Committee** – Chairman Hosford indicated that there are no challenges to responses issued by the staff.

Discussion followed.

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

**Closed Session - Motion by Brostrom, second by von Gillern 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, Schulz, and von Gillern voted yes. Motion carried (9-0-0).

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

The NADC returned to Open Session at 10:57 a.m.

**Action on or Announcement of Closed Session matters** - Executive Director Daley indicated there were no actions of the Commission to be announced from Closed Session.

**Adjournment – Motion by Gale, second by Mumm, that the NADC adjourn.** Roll Call Vote: Commissioners Brostrom, Conway, Gale, Grant, Hosford, Mumm, Schulz, and von Gillern voted yes. Commissioner Nelson voted no. Motion carried (8-1-0).

Chairman Hosford declared the meeting adjourned at 10:58 a.m.