

North Dakota Ethics Commission Meeting

Minutes of April 23, 2020

Live Stream MS Teams

1. The meeting was called to order by Chair, Ron Goodman, at 9:02 a.m. The following members of the Ethics Commission were present: Ron Goodman, Cynthia Lindquist, Paul Richard, David Anderson, and Ward Koeser. Also present was the Ethics Commission legal counsel, Allyson M. Hicks, Assistant Attorney General for the State of North Dakota, Sandra DePountis Assistant Attorney General for the State of North Dakota, Dave Thiele, Executive Director, and Holly Gaugler, Office Manager. Also present was Karilynn Berger, Information Technology Program Administrator for NDIT.
2. The agenda was discussed for this meeting with no additions.
3. The minutes of the March meeting were discussed.

Motion: Anderson moved to approve the minutes of March 11, 2020. Motion was seconded by Lindquist. Chair Goodman called for a voice vote on the motion. The Motion was approved by unanimous voice vote.

3. Executive Director Thiele provided an update to the Commission on activities since the March meeting. Thiele briefed commission on office removal of wall in order to allow Commission meetings to be held there which is on hold for now. Holly Gaugler is working part time for the Ethics Commission and part time for the National Guard and the Department of Emergency Services at Fraine Barracks until her replacement is on site.
4. Office Manager, Holly Gaugler gave a budget update as of March 31, 2020. The current budget as of March 31, 2020 shows a remaining budget at the end of the biennium of \$75,485. Holly and Dave will continue to refine estimate for the next biennium noting that the state budget will likely be under stress with current projected revenue shortfalls. Monthly budget updates will be provided to staff and members.
5. Office Manager, Holly Gaugler provided an overview of the Ethics Commission website. Executive Director Thiele asked the members approve publishing the website to provide public access. This will take approximately five working days.

Motion Koeser moved to approve going live with the Ethics Commission website. Motion was seconded by Anderson. Chair Goodman called for a roll call vote on the motion. The motion was unanimously approved by roll call vote.

6. The Commission reviewed the draft complaint rules. Thiele noted that the only change from what had been reviewed at the March meeting was the addition of a limitation on time filing. The proposed time limitation was to require that a complaint be filed within three years of the violation. It also added language that complaints could not be made for violations occurring prior to effective date of the Commission, January 5, 2019.

Motion: Anderson moved to approve the three-year time limitation on complaint filing. Motion was seconded by Richard. Chair Goodman called for a voice vote on the motion. The Motion was approved by unanimous voice vote.

7. The Commission proceeded to review the revised complaint rules and Hicks wanted to make sure the Commission was comfortable with complaint process as drafted. Lindquist had concerns about the authority granted to the Executive Director without specific language in the rule. The Commission agreed to add language in the definitions section defining Executive Director and specifying the Executive Director may have duties delegated by the Commission as outlined in the rules. There was discussion about the Executive Director preparing a written summary and discussion about what would be provided to the Commission. Thiele clarified that both a summary and the written complaint would be provided to the Commission.

Motion: Motion was made by Richard to adopt complaint rules as drafted with addition of definition of Executive Director as specified by Richard. Second by Koeser. Chair Goodman called for a roll call vote on the motion. The Motion was approved by unanimous roll call vote.

8. The Commission proceeded to discuss the bill draft process for 2021 session. Thiele reviewed changes to date and synopsis what the Commission had decided at the last meeting regarding proposed legislation. Hicks wanted to ensure the Commission was comfortable with certain language regarding confidentiality. There was some discussion regarding consideration of outside interest viewpoints. Goodman noted that while the Commission was not required to act on all outside opinions/recommendations it was important to fairly consider/listen to all viewpoints. There was discussion on what to submit as a draft bill from the Commission to the interim Judiciary Committee. The Commission agreed to review the three bill drafts and then review at the next to determine what sections would be a priority or supported by the Commission. The Commission agreed to review Rep Hanson's bill drafts as the Commission draft and Rep Klemin's bill draft had previously been discussed in detail.
9. The Commission began the review of gift rules as applied to lobbyists and public officials. Thiele noted the Constitution language regarding the Commission's authority to establish what gifts do not raise ethical concerns and can be allowed. Hicks noted that lobbyists are currently required to report expenditures over \$60. Richard led discussion regarding gifts with specific discussion of one-

on-one dinners. Richard had created a document that essentially had common themes from what other states have done regarding gifts. [Summary of Potential Gift Exceptions](#) The Commission walked through the document and made suggestions and discussed various elements.

10. At 11:33 the Commission determined that they should go into Executive Session to consider a complaint. Thiele called for the Ethics Commission to go into Executive Session to review a complaint which must be discussed in executive session. The authority for the executive session is N.D. Constitution XIV, Section 3 (2); NDCC Section 54-66-04(2); and, NDCC Section 44-04-19.2(1). The Executive Session in accord with North Dakota Law will be recorded. Thiele advised the Commission on how to join the session in MS Teams. All Commission members, Thiele, Hicks, and Gaugler left the public forum and joined the confidential Executive Session. The executive session was recorded. At 11:50 a.m. the Executive Session ended and the normal public session reconvened. Goodman asked for a motion on complaint #20-001.

Motion: Anderson moved that the Ethics Commission decline the complaint on the basis that it is not within the jurisdiction of the Ethics Commission under North Dakota Constitution Article XIV, Section 4(2). Koeser seconded the motion. Chair Goodman called for a roll call vote on the motion. The votes were as follows: Koeser, Goodman, Lindquist, Anderson, and Richard voted in favor of the motion. The motion was approved.

11. The Commission recessed for lunch at 11:55 a.m. and reconvened at 1:00 p.m. at which point the Commission continued their review of the gift exceptions document created by Richard. In addition to the items listed the Commission talked about unsolicited gifts such as meat and cheese trays, cookie trays, etc... Richard noted that we need to synch gift exceptions with advisory opinion process. Hicks noted that with advisory opinions it is critical to note that if the facts as presented were not accurate or were incomplete the Commission would retain jurisdiction to investigate possible violations. Thiele noted that there is a gap in the process if a principal can provide a gift to a public official where a lobbyist is prohibited it could lead to abuse. The Commission discussed inviting subject matter experts to brief the Commission on the actual lobbying process. Thiele was tasked to line up such individuals to brief/educate the Commission. Koeser noted that lobbyists provide an invaluable service in educating legislators and leaders and we need to make sure we don't unnecessarily impede that process.
12. Commission, having no further business, adjourned at 1:05 p.m. The next meeting will be May 13, 2020 at 9:00 a.m. by MS Teams.

Approved on May 13, 2020

_____/s/_____
Dave Thiele, Executive Director, North Dakota Ethics Commission