

## North Dakota Ethics Commission Meeting

Minutes of February 20, 2020

Red River Room, State Capitol

600 E. Boulevard Avenue, Bismarck, ND 58505

1. The meeting was called to order by Chair, Cynthia Lindquist, at 9:00 a.m. The following members of the Ethics Commission were present: Cynthia Lindquist, Paul Richard, David Anderson, and Ward Koeser. Ron Goodman was present by skype. Also present was the Ethics Commission legal counsel, Allyson M. Hicks, Assistant Attorney General for the State of North Dakota and Dave Thiele, Executive Director. Also present was Stephanie Johnson, Commission budget analyst. The Agenda was discussed.

**Motion:** Richard moved to approve a modified Agenda to include discussion of Commission schedule for remainder of 2020. Motion was seconded by Koeser. Chair Lindquist called for a voice vote on the motion. Upon voice vote, the motion to approve the agenda was unanimously approved.

The minutes of the January meeting were discussed.

**Motion:** Anderson moved to approve the minutes of January 22-23, 2019. Motion was seconded by Goodman. Chair Lindquist called for a voice vote on the motion. Upon voice vote, the minutes of the January 22-23, 2019, meeting were unanimously approved.

2. Executive Director Thiele provided an update to the Commission on activities since the January meeting. He met with members of North Dakotans for Public Integrity, Levi Andrist-President of the North Dakota Lobbyists Assn, presented an update to the Interim Judiciary Committee, met with OMB staff and took Level I procurement training, met with Dave Anderson and Leslie Bakken Oliver prior to Governor's strategy review, attended strategy review with Anderson and Lindquist. I traveled to Fargo to meet with Paul Richard to go over complaint process in detail.

The presentation to the Interim Executive Committee went well and Thiele was invited to participate in future meetings. The Committee noted that any proposed legislation introduced to the Committee needed to be considered at no less than two meetings and there are only three left before 2021 session. The Commission discussed Thiele's participation with the Interim Committee.

**Motion:** Anderson moved to have the Commission approve Thiele's participation with the Interim Judiciary Committee. Koeser seconded the motion. Chair Lindquist called for a roll call vote on the motion. The motion was unanimously approved by roll-call vote.

The Commission further discussed the Governor's Strategy Review, noting that it went very well and noted that the Governor repeatedly thanked the Commissioners for volunteering to serve. The Governor and staff were very impressed by the briefing content and presentation led by Anderson and Lindquist.

Budget overview shows we are at 94% of budget remaining with only 71% of biennium left. Noted that travel vouchers should come directly to Executive Director. Richard noted that we need to calculate investigation costs and education material costs for the next biennium. Koeser introduced the OMB budget report and provided copies to the Commission members.

Thiele noted that the Judiciary Committee was very receptive to the idea that the Commission be allowed to issue advisory opinions. Lindquist noted that we need to ensure our website is professional and easily accessed and that information is logically oriented so the public can find relevant information. Richard discussed requests for public speaking by Commission members and that requests will be made and increase as we get closer to the next legislative session. Lindquist discussed getting talking points from the Executive Director to better enable Commissioners to talk with one voice. Hicks suggested public information sessions for state employees that would also be open to the public. Richard suggested we expand our office space by taking out a wall to allow the Commission to conduct meeting there. Thiele said he would follow-up with the landlord.

Thiele discussed the interviews conducted by himself and Anderson for the administrative assistant position. We ended up with two candidates after one did not respond to request for interview and one canceled. The first interview was good, but she had no state experience. The second interviewee was very highly qualified. She has significant experience in all aspects of state government to include the legislative process. Currently she is the comptroller for the National Guard/DES. Thiele and Anderson strongly recommended that the Commission approve an offer to the applicant of \$33 an hour as a temporary employee.

**Motion:** Koeser moved, with a second by Anderson, to offer the temporary position to Holly Gaugler at \$33 per hour. The motion was unanimously approved by roll-call vote.

That concluded the Executive Director report.

The Commission recessed at 1000 and reconvened at 1010.

3. The Commission discussed the complaint form and process. The Commission worked through the current draft Commission rules drafted by Richard and Thiele for the complaint process. Richard noted that Thiele would add a jurisdictional statement before the next meeting. The Commission discussed resident vs non-resident information/complaints noting that we have no authority over a non-resident. Thiele briefed the proposed process for non-residents/anonymous information where

the information would be reviewed by the Commission and, if approved by a majority vote, the Commission could proceed as the Complainant. The Commission discussed anonymous complaints and the need to ensure that the accused received all witness statements being used as evidence along with the name of the witnesses. The Executive Director will screen cases and then begin an informal resolution process. The Commission discussed delegation of authority for the screening process to the Executive Director and the process/limits. Lindquist raised the issue of tracking complaints to ensure we have accurate data that can be reported. The Commission discussed the need for a Legislative change to authorize subpoena power for the Commission. The Commission discussed whether the Complainant should receive the Executive Director's report to the Commission. The determination was that the report would not be provided. If the Commission determined that a violation occurred, they would be provided the details. Thiele and Richard would continue to work suggested edits to the complaint process for the next meeting. Thiele would also prepare a draft complaint form consistent with the discussion.

The Commission recessed for lunch at 12:15 p.m. and reconvened at 1:00 p.m.

4. The Commission held a brief discussion on authority, which included further discussion on subpoena power. The Commission then reviewed the draft Code of Ethics and made suggested edits/changes to the gift section and the section regarding participation by Commissioners in outside boards or commissions. Thiele and Richard were to make final edits and bring final product to the March meeting.
5. The Commission had a brief discussion about the Executive Director's position description and salary, noting that the duties being performed are much greater than the Commission had originally anticipated and further noted that having a lawyer in the position was very important. Anderson would work with Sara Leno of HRMS to review position description and bring forward salary options to the next meeting.
6. The Commission finalized the agenda for the rest of 2020.
7. All items on the agenda being completed, Chair Lindquist asked Commissioners if there were any other items to consider and hearing a negative response adjourned the meeting at 2:15 p.m. The next meeting will be March 11 in the Red River Room.

Approved on 11 March 2020

Ronald Goodman, Chair, North Dakota Ethics Commission