

North Dakota Ethics Commission

Minutes of October 23, 2019 Regular Meeting

Pioneer Room, State Capital

600 E. Boulevard Avenue, Bismarck, ND 58505

The meeting was called to order by Chair, Judge Ronald Goodman, at 1:00 p.m. The following members of the Ethics Commission were present: Ronald Goodman, Dr. Cynthia Lindquist, David Anderson, Ward Koeser and Paul Richard. Also present was the Ethics Commission legal counsel, Allyson M. Hicks, Assistant Attorney General for the State of North Dakota.

1. The Commission reviewed the agenda.

Motion: Richard moved that the agenda be amended to include the approval of the minutes from the September 12-13, 2019, Special meeting. Anderson seconded the motion. Chair Goodman called for a voice vote on the motion. The motion was approved by unanimous voice vote.

2. The Commission reviewed the minutes from the September 12-13, 2019, Special meeting.

Motion: Koeser moved for approval of the minutes from the September 12-13, 2019, Special meeting. Lindquist 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. Motion approved.

3. Chair Goodman led a discussion of the regular meeting schedule discussed and approved at the September special meeting. Discussion was held regarding modifying the schedule to a one day meeting each month through May, 2020, starting at 9:00 a.m. and ending upon the completion of the meeting agenda.

Motion: Richard moved that the regular meeting schedule be modified starting in November, 2019, through May 2020, to hold only a one day meeting starting at 9:00 a.m. on the currently scheduled day and ending upon the completion of the meeting agenda. Koeser seconded the motion. Discussion was held on 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 against the motion. Motion failed.

Motion: Lindquist moved that the November regular meeting be limited to a one day meeting starting at 9:00 a.m., November 14, 2019, ending upon completion of the meeting agenda. Further, that the currently scheduled meeting date of November 13, 2019, starting at 1:00 p.m., be cancelled. Koeser seconded the motion. Chair Goodman called for discussion on the motion. Chair Goodman called for a voice vote on the motion. Motion approved unanimously by voice vote.

4. Chair Goodman requested Lindquist to provide a follow-up update on the development of the Ethics Commission website. Lindquist has met with the North Dakota information technology leadership and staff to discuss the options for the Ethics Commission website. The Ethics Commission website is able to be maintained on the State technology platform. It was recommended that we consider naming the Ethics Commission website as “ethicscommission.nd.gov”. It was the consensus of the Commission members that this was a good direction for the Ethics Commission website. Lindquist will continue to work with the State information technology department to advance the Ethics Commission website forward under the domain name “ethicscommission.nd.gov”.
5. Chair Goodman requested Anderson to provide an update on the development of the job descriptions for the Ethics Commission executive director and administrative assistant. Anderson provided the Commission with proposed drafts of each job description (See Attached Proposed Job Descriptions). Anderson introduced Sara Leno from the North Dakota Office of Management and Budget, Human Resources, to discuss each position and options on job classifications. Ms. Leno stated that both positions could be posted soon and it would take about 2 weeks to screen initial applicants and provide the Commission with a list of possible candidates. Discussion was held that it might be best to with the Executive Director search first as the Executive Director should be involved in the selection of the administrative assistant. Ms. Leno agreed. Ms. Leno also provided information regarding the potential salary ranges for each position (See attached ND Salary ranges. The Commissioners provided Anderson with suggested modifications to the Executive Director job description.

Chair Goodman called for a brief recess at 1:49 p.m. The meeting reconvened at 2:05 p.m.

Motion: Koeser moved for approval of the Executive Director job description with the modifications noted by the Commissioners (Revised Executive Director Job Description attached). Richard seconded. 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. Motion approved.

Motion: Lindquist moved for approval of the administrative assistant job description as proposed. 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. Motion approved.

Anderson will continue to work with the North Dakota human resources department to have the executive director job posted. Anderson will report at the November meeting on next steps in the recruitment and hiring process for the executive director.

Motion: Lindquist moved that the Executive Director salary range be set between \$76,904 to \$117,157. Koeser seconded the motion. Chair Goodman called for discussion. 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. Motion approved.

6. Anderson provided an additional update on Commissioner technology needs. Koeser and Goodman indicated they would like to have laptops for Commission work. Discussion was held.

Motion: Anderson moved that the Commission secure laptops for Koeser and Goodman to be provided and maintained by the North Dakota technology department. 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. Motion approved.

7. Chair Goodman asked Koeser to provide an update on office space search for the Ethics Commission. Koeser introduced John Boyle, OMB facilities management. Mr. Boyle provided the Commission with information on three potential office locations along with the pros/cons of each space. Mr. Boyle provided a summary page of the three locations, costs, and other relevant information (See attached Office Space Analysis and office space information). It was noted that the rent office spaces located within the Northbrook Professional Center included rent for unusable space as the tenant in the Center must also pay an allocation of common space. The rent figure for the office space in the Boulder Ridge Office Park was for all usable space. In sum, the rent per square foot of usable space was relatively equivalent for all three locations. Boyle noted that the office space in the Northbrook Professional Center would require some updates at a minimum carpet, paint and new ceiling tiles. The space in Boulder Ridge Office Park was move in ready.

Motion: Koeser moved to proceed with negotiations with Boulder Ridge Office Park for Ethics Commission office space at \$20.65/sq. ft. effective January 1, 2020. Anderson seconded the motion. Chair Goodman called for discussion. Chair Goodman called for a roll call vote on the motion. The votes were as

follows: Koeser, Goodman, Linquist, Anderson and Richard voted in favor of the motion. Motion approved.

8. Chair Goodman called upon Richard to provide an update on the analysis of potential conflicts or constitutional questions that exist or may exist between Article XIV of the North Dakota Constitution and North Dakota Century Code Chapter 54-66. Richard reported that he has further reviewed the North Dakota Constitution and Chapter 54-66 for potential conflicts that may require further guidance from the North Dakota Attorney General. Richard noted that until the Commission begins to draft rules and policies to implement the requirements of Article XIV, it is difficult to quantify the potential conflicts that may exist. As the Commission does the work of the Commission it will be better able to identify those issues that cannot be reconciled and require specific guidance from the North Dakota Attorney General. It was the general consensus of the Commissioners that the Commission will proceed to develop its procedures, processes, and rules. If conflicts are identified between the Constitution and the North Dakota Century Code, specific requests for an Attorney General opinion will be submitted at the time to provide further guidance to the Commission.

Chair Goodman called for a recess at 3:15 p.m. The Commission reconvened at 3:30 p.m.

9. Chair Goodman called on Koeser and Richard to provide a summary of the Interim Judiciary Committee Ethics Commission Study held September 25, 2019. The Testimony of Representative Lawrence R. Klemin was handed out to the Commissioners for review (See attached Klemin Testimony). Discussion was held. Chair Goodman indicated that he will review potential rules for the Commission to consider at the November meeting. Discussion was held regarding where individuals who wish to file a complaint should send the complaint until the Commission has staff, office and a hotline. The consensus was that any complaints should be sent to Chair Goodman in writing. It was noted that the Judiciary Committee is meeting again on November 13, 2019, and the topics relevant to the Ethics Commission are scheduled for the afternoon session. Chair Goodman handed out a draft of a Code of Ethics for the Commission to consider. No discussion on the draft Code of Ethics was held and Commissioners were asked to bring comments and input to the November meeting for further discussion.
10. Chair Goodman called for a discussion on whether the Ethics Commission should secure a membership in the Council on Governmental Ethics (COGEL). The Commissioners agreed that a membership would provide valuable resources for the Commission. COGEL is holding a meeting in December. Chair Goodman indicated that he would be able to attend the COGEL meeting and would like to attend.

Motion: Anderson moved that the Ethics Commission secure a membership in the Council on Governmental Ethics (COGEL). Lindquist seconded the motion. Discussion was held. Chair Goodman called for a roll call vote on the motion. The votes were as follows: Koeser, Goodman, Lindquist, Anderson, Richard voted in favor of the motion. Motion approved.

Anderson will work with OMB on the process to secure the COGEL membership and register each Commissioner so that they may access the COGEL information and website.

Motion: Koeser moved to authorize Chair Goodman's attendance of the COGEL December, 2019, meeting. Anderson seconded the motion. Discussion was held. 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. Motion approved.

11. Chair Goodman called for a discussion on livestreaming meetings and potential future speakers. The Commissioners were of the general view that we should livestream future meetings. Lindquist will further review the ability to livestream meetings and bring information back to the November meeting. Further discussion was held on potential speakers or presentations for future meetings. It was felt that a presentation on livestream meetings would be beneficial.

Executive Session:

12. Chair Goodman called for the Ethics Commission to go into Executive Session at 4:00 p.m. 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). Chair Goodman read the statement calling the Executive Session in accord with North Dakota Law which was recorded. All individuals in attendance left the meeting room with the exception of Ms. Hicks, Koeser, Goodman, Lindquist, Anderson and Richard who were all present for the executive session. The executive session was recorded. At 4:15 p.m. the executive session was ended and the meeting room opened to other attendees.

Motion: Richard 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). 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. Motion approved.

13. Chair Goodman announced that the Commission had completed all items on the agenda. Discussion was held on the need for the meeting to continue at 9:00 a.m. on October 24, 2019, as scheduled.

Motion: Anderson moved that the meeting scheduled for October 24, 2019, be cancelled and the meeting be adjourned. Koeser seconded the motion. Chair Goodman called for a voice vote on the motion. The motion was approved by unanimous voice vote.

Meeting adjourned at 4:30 p.m.

Approved on November 14, 2019.



Ronald Goodman, Chair, North Dakota Ethics Commission