

North Dakota Ethics Commission Meeting

Minutes of June 22-23, 2022

State Capitol Sakakawea Room and Live Stream MS Teams

June 22, 2022

1. **Call to Order:** The meeting was called to order by Chair Ron Goodman, at 9:03 a.m. The following members of the Ethics Commission were present: Vice Chair Cynthia Lindquist and Commissioners Paul Richard, Ward Koeser and David Anderson. Also present were Ethics Commission legal counsel Allyson Hicks, Executive Director Dave Thiele, and Office Manager Holly Gaugler.
2. **Approval of Agenda:** No additions were made.
3. **Approval of Minutes:** The minutes of the 25 May 2022 meeting were discussed with no changes.

Motion: Commissioner Koeser moved to approve the minutes of May 25, 2022 with no corrections. Motion was seconded by Commissioner Anderson. Chair Goodman called for a voice vote on the motion. The motion was approved by unanimous voice vote.

4. **Budget Update:** Office Manager Holly Gaugler provided a budget update as of May 30, 2022. Gaugler reported May 2022 expenditures of \$21,944 and total expenditures for the biennium of \$246,343 leaving a remaining biennial budget of \$377,641. Gaugler also reported projected expenditures for the remainder of the biennium (June 1, 2022 through June 30, 2023) at an estimated \$358,955 which would leave an approximate ending balance of \$18,686 on June 30, 2023. Gaugler briefed the Commission on the various accounts within the budget, explaining an increase in the salaries for health insurance to be included for the new Executive Director. Projected travel costs were reduced to approximately \$12,000 for the remainder of the biennium as the Commission continues to hold virtual meetings. Gaugler also pointed out the contingent amount budgeted for investigative costs at \$20,000 which if not used will also be turned back to the general fund at the end of the biennium.

5. **Executive Director Dave Thiele Update:**

- Thiele briefed the Commission on the scheduled interview process for a new Executive Director for the six applicants. All six applicants will be interviewed during the in-progress meeting covering both June 22nd and 23rd. The Commission discussed possibly having a special meeting the following Monday June 27th for final decision of a new Executive Director.

- Thiele discussed the draft request for an Attorney General Opinion. It has been reviewed by Commissioner Paul Richard and Legal Counsel Allyson Hicks. Thiele asked if there were any other comments from Commissioners and there were none. Thiele requested a motion to approve.

Motion: Commissioner Richard moved to approve the draft request for an Attorney General Opinion. Motion was seconded by Commissioner Anderson. Chair Goodman called for a roll call vote on the motion. The motion was approved by unanimous roll call vote.

6. **Commission Discussion of Quasi-Judicial Rule Draft** Executive Director Thiele briefed the Commission on written comments received from two individuals regarding the pending Quasi-Judicial Bias rule.

- a. The first comment was from Mr. Tim Dawson, the Director of the Office of Administrative Hearings. Mr. Dawson requested that his office be exempted from the Quasi-Judicial Bias rule as he was also required to follow the State of North Dakota Bar rules. Thiele, Commissioner Paul Richard, and Legal Counsel Allyson Hicks reviewed his comments and did not recommend any changes to the draft rule as the rule language was directly from the ND Constitution Article XIV and it was fairly routine that officials be subject to two different sets of rules. Thiele also commented that Mr. Dawson would not be subject to a restriction on campaign donations as an elected official under the Quasi-Judicial rule.
- b. The other comments were from Mr. Zach Pelham whereby he requested that language be included in the rule that donations from PAC's should be exempted from the campaign contribution restriction as PAC's are not parties to proceedings. Thiele did not recommend changes to the rules as the draft rule was clear that one must be a party to the proceeding. Mr. Pelham's second concern was to simplify the "Neutral Reviewer" process in 115-05-01-02(4). Thiele also did not recommend changes to the "Neutral Reviewer" process as there were no other comments regarding simplification. Legal Counsel Hicks suggested the Commission may want to add some clarification to the rule regarding PAC's as she indicated there is some confusion. The Commission did not want to exclude PAC's in the language but was in favor of further language that the campaign donor was a party to the proceeding in the definition of "Campaign Monetary or In-Kind Support" by inserting "from a party to a proceeding" in 115-05-01-02(2).

Motion: Commissioner Anderson moved to approve the draft Quasi-Judicial Bias Rule as amended to include "from a party to a proceeding" in 115-05-01-02(2). The motion was seconded by Commissioner Lindquist. Chair Goodman called for a roll call vote on the motion. The motion was approved by unanimous roll call vote.

7. Commissioners interviewed Mr. Michael Mahoney for the Executive Director position.
8. Commissioners interviewed Mr. Brian Johnson for the Executive Director position.
9. The Commission recessed at 3:45 until June 23, 2022.

June 23, 2022 (Revised Agenda)

10. The Commission reconvened at 8:00 a.m.
11. Commissioners interviewed Mr. Daniel Gulya for the Executive Director position.
12. Commissioners interviewed Ms. Laura Balliet for the Executive Director position.
13. Commissioners interviewed Mr. Joseph “Dutch” Bialke for the Executive Director position.
14. Commissioners interviewed Ms. Rebecca Binstock for the Executive Director position.
15. Commissioners discussed applicants and agreed upon Ms. Rebecca Binstock as the successful applicant.

Motion: Commissioner Richard moved to offer the position of Executive Director of the North Dakota Ethics Commission to Ms. Rebecca Binstock. The motion was seconded by Commissioner Koeser. Chair Goodman called for a roll call vote on the motion. The motion was approved by unanimous roll call vote.

16. The Commission discussed going into executive session under the authority of N.D.C.C. 44-04-19.1(9) to discuss negotiating instructions for the starting salary of Ms. Rebecca Binstock as the new ND Ethics Commission, Executive Director.

Motion: Commissioner Lindquist moved to have the ND Ethics Commission enter into executive session to discuss starting salary for Ms. Rebecca Binstock as the new Executive Director of the North Dakota Ethics Commission. The motion was seconded by Commissioner Koeser. Chair Goodman called for a roll call vote on the motion. The motion was approved by unanimous roll call vote.

17. The Commission began executive session at 2:48 p.m. to discuss starting salary for Ms. Binstock. It was attended by Chair Ron Goodman, Vice Chair Cynthia Lindquist, Commissioner David Anderson, Commissioner Ward Koeser and Commissioner Paul Richard as well as current

Executive Director Dave Thiele, Legal Counsel Allyson Hicks, and Office Manager Holly Gaugler.
Executive session ended at 3:10 p.m.

18. The Commission returned to the regular meeting at 3:10 pm from executive session where the Commission had discussed starting salary for Ms. Rebecca Binstock. During executive session, Executive Director Dave Thiele was asked to negotiate starting salary with Ms. Rebecca Binstock.

Motion: Commissioner Anderson moved to authorize Executive Director Dave Thiele to negotiate starting salary with Ms. Binstock as discussed during the Commission's executive session. The motion was seconded by Commissioner Lindquist. Chair Goodman called for a roll call vote on the motion. The motion was approved by unanimous roll call vote.

19. **Adjourn:** Commission, having no further business, was adjourned at 3:25 p.m. The next meeting is a MS teams meeting tentatively scheduled for July 12, 2022,

Approved on

17 Aug 22



Dave Thiele, Executive Director, North Dakota Ethics Commission