

## North Dakota Ethics Commission Meeting

Minutes of May 13, 2020

Live Stream MS Teams

1. The meeting was called to order by Chair, Ron Goodman, at 9:01 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, 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 April meeting were discussed.

**Motion:** Lindquist moved to approve the minutes of April 23, 2020. Motion was seconded by Koeser. 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 the proposed complaints rules. Public notice has been posted in all newspapers around the state and rules have been provided to the North Dakota Legislative Council. A public hearing will be held on June 3, 2020 for comments which may be submitted in person, online or by phone with a deadline of June 15, 2020. Thiele asked that the June meeting be moved past that date. The Commission agreed the next meeting would be held June 17, 2020 at 9:00 am.
4. Office Manager, Holly Gaugler gave a budget update as of April 30, 2020. The current budget as of April 30, 2020 shows a remaining budget at the end of the biennium, June 30, 2021, of \$60,866. Gaugler stated that the Governor's budget guidelines for the upcoming 2021-23 biennium required a 5% reduction for the Ethics Commission which would be an approximate \$25,900 reduction from the current appropriation of \$517,155. In budget discussion, Chair Goodman asked that the Executive Director, Thiele attend the annual COGEL Conference December 13 – 16, 2020 in Atlanta. Instead of Atlanta it may be provided online this year where Thiele and Commission members may also attend.

5. Executive Director, Thiele provided an update on the website, announcing that it went live on April 26, 2020. Lindquist asked that the Commission get access to statistical tracking and usage of the website. Hicks also asked that future approved meetings be posted.
  
6. Joel Gilbertson of GA Group presented "Lobbying 101" and the industry rules of lobbying. The Commission discussed the definition of "lobbyist" and "gifts". Richard led discussion on whether a principal or corporation would be considered a lobbyist. Richard and Goodman both noted that before gift exceptions can be provided, the Commission needs to define lobbyist. Gilbertson described examples of actions of a lobbyist and that of a principal or corporation as well as the value of lobbyists relationships with legislators. Anderson requested that in the future Gilbertson or members of his group provide further discussion of the definition of a registered lobbyist.
  
7. Ellen Chaffee with North Dakotans for Public Integrity presented "Comments on Constitutional Gift Requirement and Lobbying". Chaffee noted the constitution does not differentiate between lobbyists and registered lobbyists and exceptions should be focused on areas of greater ethical concern factors. There was further discussion with Chaffee and the Commission on the definition of lobby and lobbyist and the exceptions. Chaffee defined a lobbyist as anyone that influences public decision or vote regardless if they are a registered lobbyist and a citizen acting on their own behalf would not be considered a lobbyist.
  
8. Commission adjourned for lunch at 11:50 a.m. and resumed at 12:45 p.m. and discussed bill drafts and process for the 2021 Legislative session. Thiele stressed submitting the Commission's bill draft to the Interim Judiciary Committee as soon as possible. Committee discussed incorporating Representative Hansen and Representative Klemin's bill drafts into the Commission's bill draft to submit to Interim Committee. Richard also supported advancing the Commission's bill draft to the Interim Committee and including Representative Klemin's advisory opinion amendments in the Commission's draft bill but not including Representative Hansen's draft bill at this time. Hicks noted that the Commission should be including important sections of all bill drafts in the Commission's bill. Goodman had concerns that there should be a definition of lobby and lobbyist included in the Commission's bill draft. The Commission discussed Richard and Thiele meeting with Representative Hansen to gain a clear understanding of the intent of her bill draft. The Commission also discussed seeking an Attorney General's opinion clarifying the authority of the Commission to define lobby and lobbyist pertaining to gift exceptions rules in Article XIV. Goodman noted that Thiele draft the opinion request and Hicks reviews before it is sent forward.

**Motion:** Richard moved that the Commission submit a request for an Attorney General's opinion if the Commission is bound to the definition of lobby and lobbyist in NDCC 54-66 or if it can be expanded as it pertains to Commission's rules for gift exceptions. The motion was seconded by Ward and unanimously approved by roll call vote

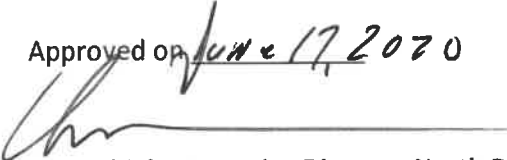
9. The Commission also agreed that Richard, Thiele and Hicks have a conference call with Representative Hansen to discuss the intent of the elements of her bill draft. The Commission also agreed that Thiele send forth the Commission's draft bill with Klemin's advisory opinion amendment.

**Motion:** Richard moved that the Commission approve the bill draft with Representative Klemin's advisory amendment and Thiele advance it to the Interim Judiciary Committee. Linquist seconded the motion. The Motion was approved by unanimous roll call vote.

10. The Commission discussed rules regarding gifts between lobbyists and public officials. Thiele noted that he has begun a draft of definitions and exceptions. After considerable discussion of current parameters in Article XIV, the Commission agreed that Richard and Thiele would continue to draft rules for review by the Commission at the June 17<sup>th</sup>, 2020 meeting. Their draft would include the current parameters in Article XIV and also the Summary of Potential Gift Exceptions presented by Richard at the April 23, 2020 Ethics Commission meeting.
11. The Commission discussed the continuance of having MS Teams meetings rather than in-person. All agreed this is acceptable for both safety and budget reasons. Hicks noted that it is legal, however, once the Governor's executive order has been lifted for COVID-19, a public location has to be provided for those that do not want to call in. Hicks suggested the conference room at the current location of the North Dakota Ethics Commission.

Commission, having no further business, adjourned at 2:45 p.m. The next meeting will be June 17, 2020 at 9:00 a.m. by MS Teams.

Approved on June 17, 2020



Dave Thiele, Executive Director, North Dakota Ethics Commission