

North Dakota Ethics Commission Special Meeting

Minutes of May 31, 2023

MS Teams

1. **Call to Order:** The meeting was called to order by Vice Chair Dave Anderson at 9:04 a.m. The following members of the Ethics Commission were also present: Commissioners Ron Goodman and Cynthia Lindquist, as well as Special Assistant Attorney General Pat Monson, Executive Director Rebecca Binstock, and Office Manager Holly Gaugler. Chair Paul Richard joined at 9:12 a.m. Commissioner Ward Koeser was not present.
2. **Agenda Additions:** No additions were made.
3. **Approval of Minutes:** The Commission discussed meeting minutes from May 24, 2023. Commissioner Lindquist noted a small spelling error in the item number 4 motion.

**Motion:** Commissioner Goodman moved to approve meeting minutes from May 24, 2023, with the noted spelling error corrected. Motion was seconded by Commissioner Lindquist with noted correction. Vice Chair Anderson called for a voice vote. The motion was approved by unanimous voice vote.

4. **Executive Director Update:**
  - Office Manager Holly Gaugler provided an overview of Senate Bill 2024 as passed, providing the Commission's 2023-25 biennial budget. Gaugler's overview included changes made through both the House and Senate appropriation committees as well as the conference committee. SB 2024 was passed on April 24, 2024 with a total appropriation of \$1,138,242. Gaugler noted that the only change made by conference committee that did not pass was the emergency clause provision for \$97,000 including SAAG costs of \$72,000 and \$25,000 for office relocation costs. However, an emergency clause was added to OMB's SB 2015 which included the entire appropriation of \$1,138,242.
  - Executive Director Binstock provided an update on the new office location. Based on direction from the Commission during the May 24, 2023, meeting, a purchase was made of five separate tables to use as a conference table rather than one large conference table for a total of \$5,340.16. She also reported that new carpeting was scheduled to be installed in the next couple of days. Further work is not scheduled until the arrival of the DIRTT walls, which are anticipated for late June.

- Executive Director Binstock discussed the education and outreach calendar, noting that she is scheduled to present at the State Bar Association of North Dakota (SBAND) annual meeting on June 14 – 16.
- Executive Director Binstock provided an update on the on-line forms submission project. She and staff have had several meetings with the NDIT project team. She plans to be very involved throughout the project to make sure the project continues to move forward.
- Executive Director Binstock briefed the Commission on the hiring of a General Counsel and an Executive Assistant. A job description for the General Counsel position was sent to Sara Leno at OMB's HR. The position may be posted as early as June 2 and open for two weeks; closing on June 16<sup>th</sup>. She anticipates the Commission to be conducting interviews June 22-23. The job description for the Executive Assistant position will be sent to HR next week with an anticipated interview time at the end of June. She recommended not conducting interviews during a public meeting. Instead, Executive Director Binstock recommends conducting interviews between interviewees and 1-2 Commissioners and the Executive Director. The Commission asked that a final candidate for hiring for the General Counsel position be brought to the Commission in open meeting for discussion and approval prior to making an offer of employment. Commissioners agreed the hiring of an Executive Assistant did not require board approval.
- Executive Director Binstock updated the Commission on the appointment of the SAAG to serve as Interim General Counsel. On May 30, 2023, a letter was sent to the Office of the Attorney General requesting Patricia Monson be appointed as interim general counsel to the Commission until the Commission fills the FTE for General Counsel. Upon approval of the request, the Commission will likely need to sign a new contract with Ms. Monson as the scope of her work for the Commission will broaden.
- Executive Director Binstock briefed the Commission on the process for appointing a new Commissioner. A letter was sent to the Office of the Governor on May 23, 2023, to request the opening on the Ethics Commission be posted to the Governor's website in regard to the expiration of Commissioners Goodman and Lindquist's terms on August 32, 2023. She also requested that Commissioner Goodman be reappointed. The upcoming opening(s) were posted on the Governor's website late last week.

Executive Director Binstock will coordinate with the Office of the Governor, Senate Majority Office, and Senate Minority Office to inform North Dakota residents about the opportunity to serve as a Commissioner. Executive Director Binstock plans to post a news release calling for applicants to the Ethic Commission website, as well as to send the release to the North Dakota Supreme Court website and SBAND for posting. The news release will likely be sent to newspapers across the state as well. Executive Director Binstock will coordinate with the Governor's office, Senate Majority Leader, and Senate Minority Leader regarding the process.

5. **Advisory Opinion Request 23-02:** On May 17, 2023, Executive Director Binstock received a Request for Advisory Opinion pursuant to N.D.C.C. § 54-66-04.2. The request related to an event whereby legislators and other state public officials attend an out-of-state event in which their expenses are paid. The request stated that it was not a lobbying event. Executive Director Binstock indicated that the requestor did provide some specifics of the event, however, there will be a need to follow up with additional questions.

Executive Director Binstock, in consultation with Chair Richard, has determined this request is appropriate for the issuance of an advisory opinion. Upon review of the request, Executive Director has determined the names of the persons in the opinion and request will be open records. A letter to that effect will be emailed to the requester on May 31, 2023.

6. **Annual Review of Records Disposal:** Office Manager Holly Gaugler updated the Commission on the requirements of an annual records disposal process managed through NDIT. She had requested an extension from the State Records Management Coordinator at NDIT from June 30<sup>th</sup> to July 31, 2023. That extension was granted and Gaugler asked that any Commissioners who had not yet completed the process to meet with her during the July 18 in-person meeting where she would help them in completing their records disposal.

7. **Salary Discussion for Commissioners and Executive Director:**

- **Executive Director:** A 6% compensation adjustment for state employees effective July 1, 2023 and a 4% compensation adjustment effective July 1, 2024 was approved by the North Dakota Legislature. The increases are to be based upon documented performance pursuant to SB 2015, Section 21. Those increases for the Executive Director were included by the legislature in the 2023-25 budget in SB 2024. The current salary of the Executive Director is \$133,000/yr. Six percent would add an additional \$7,980 for a total annual salary of \$140,980. To align with legislative intent, Executive Director Binstock requested the Commission evaluate, using the approved evaluation form, her performance and approval of a compensation adjustment in accordance with that evaluation. Executive Director Binstock requested the evaluation be completed and the compensation adjustment approved before July 1, 2023, in order for the compensation adjustment to apply as directed by SB 2015. Such approval can be considered at the Commission's June meeting. Chair Richard will initially fill out the evaluation form and seek input from the other Commissioners to complete the form at the June 13<sup>th</sup> meeting which will provide a basis for the Executive Director's July 1, 2023 salary increase. He also added that this process will also provide an opportunity for the Commission, as a whole, to discuss future goals and direction for the Commission.
- **Commissioners:** Pursuant to N.D.C.C. § 54-66-04, Commissioners are paid based on a daily rate as provided for members of the legislative management for their service set forth in N.D.C.C. § 54-35-10. The North Dakota Legislature passed HB 1001, Section 8 that amended N.D.C.C. § 54-35-10 to \$205 per day for the first year (beginning July 1, 2023) of the biennium and \$213 for

the second year (beginning July 1, 2024). Current pay is at \$193/day. Commissioners' pay will be automatically adjusted in accordance with the statute.

8. **Executive Session:** The Commission entered executive session during the general meeting at 10:30 a.m. to discuss Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009 and 22-010 under the authority of N.D.C.C. Sections 54-66-12(1), 54-66-12(3), and 44-04-19.2(1) – information regarding the content and parties to a complaint to the Ethics Commission is confidential. The following participants entered the executive session: Chair Paul Richard, Vice Chair Dave Anderson, Commissioners Ron Goodman and Cynthia Lindquist, Special Assistant Attorney General Pat Monson, Executive Director Rebecca Binstock, and Office Manager Holly Gaugler. Executive Session ended at 11:05 a.m. and all participants returned to the regular meeting. During the Executive Session, the Commission discussed Complaint Nos. 22-003 through 22-010. After Executive Session discussion, the following motion was made:

**Motion:** Commissioner Goodman moved to authorize Special Assistant Attorney General Pat Monson and Executive Director Rebecca Binstock to proceed with Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009 and 22-010 as discussed in Executive Session. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

9. **Adjourn:** Having no further business, the meeting was adjourned at 11:11 a.m. The next regular meeting is scheduled for June 13, 2023, at 9:00 a.m.

Approved on 6/14/2023 

Rebecca Binstock, Executive Director, North Dakota Ethics Commission