

# North Dakota Ethics Commission Meeting

Minutes of September 14, 2022

Held at the State Capitol Red River Room and Live Stream MS Teams

1. **Call to Order:** The meeting was called to order by Chair Paul Richard at 9:03 a.m. The following members of the Ethics Commission were also present: Vice-Chair David Anderson, Commissioners Ron Goodman, Ward Koeser, and Cynthia Lindquist, Legal Counsel Mary Kae Kelsch, Rebecca Binstock (incoming Executive Director), Dave Thiele (outgoing Executive Director) and Office Manager Holly Gaugler.
2. **Approval of Agenda:** Chair Richard requested an additional agenda item to discuss future meetings as virtual or in-person meetings.
3. **Approval of Minutes:** The minutes of the August 17, 2022, meeting were discussed with no substantive corrections.

**Motion:** Commissioner Koeser moved to approve the minutes of August 17, 2022, with no corrections. Motion was seconded by Commissioner Goodman. Further discussion was made to amend minutes with a correction of the spelling of Zack Pelham's name. Chair Richard called for a voice vote to approve minutes with the motion to include a spelling correction for Zack Pelham's name. The motion was approved by unanimous voice vote.

4. **Budget Update:** Office Manager Holly Gaugler provided a budget update as of August 31, 2022. Gaugler reported August 2022 expenditures of \$22,357 and total expenditures for the biennium of \$316,324 leaving a remaining biennial budget of \$307,660. Gaugler also reported projected expenditures for the remainder of the biennium (September 1, 2022 through June 30, 2023) at an estimated \$286,271 which would leave an approximate ending balance of \$21,389 on June 30, 2023. Gaugler briefed the Commission that all accounts are estimates and the ending balance may change depending on level of activity particularly with the larger expenditures of travel and investigation costs. Gaugler also mentioned the 2023-25 biennial budget had been submitted to OMB on August 18, 2022, and a budget meeting had been scheduled for October 3, 2022, with incoming Executive Director Rebecca Binstock and Holly Gaugler with representatives from OMB, Legislative Council, and the Governor's Office.

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

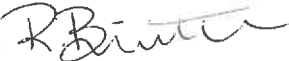
- Thiele briefed the Commission on the status of the General Conflict Rule adoption process: Rules have been advertised and an administrative hearing is scheduled for September 27, 2022. The Commission will accept comments for 10 days after that hearing. No additional comments have been received. Thiele anticipates that the Commission should be able to formally adopt the rules at the October 19<sup>th</sup> Ethics Commission's regular meeting.
- Thiele provided an update on the August 24<sup>th</sup> Government Administrative Committee hearing regarding state agency space usage. Thiele briefed the Government Administrative Committee on two options being considered by the Commission to include negotiating for a smaller workspace and another option of all staff working from home. Thiele indicated the Committee did not provide any negative feedback on either of those two options.
- Thiele reminded the Commission of the annual COGEL conference in Montreal, December 4-7, 2022. The early registration through October 28<sup>th</sup> is \$600 which will go to \$700 after October 28<sup>th</sup>.
- Thiele briefed the Commission on Complaint #22-002 involving a complaint by a non-resident subject to a ND board. Thiele dismissed the complaint based on the Ethics Commission's current complaint rule regarding non-residents. No appeal has been received.

6. **Discussion/Review of Legislation:** Executive Director Thiele briefed the proposed legislation for consideration/discussion by the Commission for the upcoming 2023 legislative session:

- a. Allowing non-residents to file complaints in instances they are subject to a ND licensing board. The Commission also discussed allowing non-residents that are not necessarily licensed but impacted as a party by the decision of a board, commission, or state entity. Legal Counsel, Allyson Hicks is going to be drafting language for the Commission for upcoming legislation.
- b. Adding language in NDCC 54-66 that allows the Commission jurisdiction over employees of the executive branch of state government. Executive Director Rebecca Binstock also commented on the information from NCSL indicating that it appeared that most states' ethics commissions have authority over employees of executive branches of state government. Legal Counsel, Mary Kae Kelsch concurred with Executive Director Binstock and added that many states limited that authority over executive branch employees to certain activities.

The Commission discussed concerns of the expansion and effects of jurisdiction in both of the proposed pieces of legislation. The Commission agreed to move forward but requested further research by Executive Director Rebecca Binstock and Legal Counsel Allyson Hicks.

7. **Discussion of Lease/Office Space:** Commission discussed options of reducing the size of the current office, staff working from home or remaining in current office location. All options were debated by Commissioners as well as comments from staff and legal counsel. All agreed that a reduction of space would be desirable; however, a decision was not made on a final option.
8. **New Executive Director Rebecca Binstock On-boarding Process:** Executive Director Rebecca Binstock briefed the Commission on her first week at the Ethics Commission. Her first week included familiarity with NDCC 54-66, the ND Constitution Article XIV. Binstock held meetings with North Dakotans for Public Integrity (NDPI), the ND Lobbyists Association, and the Legislative Council.
9. **Further Business – Discussion of Future Meetings:** The Commission discussed the upcoming meetings on whether the Commission would like to have more in-person meetings rather than virtual meetings using MS Teams. The Commission agreed in-person meetings are of significant value and should be held once a quarter beginning with the October 19<sup>th</sup> meeting.
10. **Adjourn:** Commission, having no further business, was adjourned at 10:19 a.m. The next meeting is scheduled for October 19, 2022, at 9:00 a.m. in-person at the Capitol and MS Teams.

Approved on 10/19/2022 

Rebecca Binstock, Executive Director, North Dakota Ethics Commission