

ALASKA PUBLIC OFFICES COMMISSION
MINUTES
REGULAR COMMISSION MEETING
SEPTEMBER 13, 2012

A regular meeting of the Alaska Public Offices Commission came to order at 8:45 a.m. on Thursday, September 13, 2012. The meeting was held at the Anchorage APOC office at 2221 E. Northern Lights Blvd., Room 128, Anchorage, Alaska.

Brackets [] indicate an agenda item number and that an information packet is included in the meeting binder. Asterisks * indicate that no information was included in the meeting binder.

In Attendance:

Commission: Elizabeth Hickerson - Chair
Kenneth Kirk - Commissioner
Vance Sanders - Commissioner
Carol Brenckle - Commissioner (Telephonically)

Staff: Paul Dauphinais - Executive Director
Jerry Anderson - Assistant Director
Joan Mize - Program Coordinator II - Juneau (Telephonically)
Thomas Lucas - Associate Attorney II
Heather Hebdon - Associate Attorney II
Amanda McDonald – Paralegal I
Maria Bulfa - Law Office Assistant II

In person Attendees: Assistant Attorney General, Department of Law
John Ptacin
Bill Milks

Advisory Opinion/Exemption Request

Barbara Bachmeier - AO 12-17-CD
Hal Gazaway - POFD Exemption Request

Joel Natwick v. George Jacko, 12-08-POFD

Howard Trickey - Complainant Counsel, Jermain Dunnagan & Owens P.C,
Bill Ingaldson - Respondent Counsel, Ingaldson, Fitzgerald P.C.
Gayle Savage - Staff, Ingaldson, Fitzgerald P.C
Kate Conley - Clerk, Lake & Peninsula Borough (Telephonically)

Civil Penalty Appeals/Public Comment

Rebecca Demientieff - City Mayor, City of Holy Cross

Rosalie Wulf - City Council, City of Holy Cross

Tom Amodio - Counsel Rep. Herron & Sen. Hoffman
(Telephonically)

Senator Albert Kookesh - Self, Civil Penalty Appeal
(Telephonically)

Nancy Gordon - Legislative Aide (Telephonically)

Senator Lesil McGuire - Self, Civil Penalty Appeal
(Telephonically)

Robert Lance - Treasurer, DSA- District 7, Civil Penalty Appeal
(Telephonically)

Barbara Bachmeier - Self

ON RECORD 8:45 a.m.

Chair Hickerson called the meeting to order.

Approval of the Agenda [*]

The Commission approved the agenda as revised.

Approval of the Meeting Minutes [1]

- **June 6, 2012**

Commissioner Kirk moved to approve meeting minutes as revised.

Commissioner Sanders seconded the motion.

The Commission voted 4-0 approval the June 6, 2012 meeting minutes.

- **July 19, 2012**

Commissioner Kirk moved to approve meeting minutes.

Commissioner Sanders seconded the motion.

The Commission voted 4-0 approval the July 19, 2012 meeting minutes.

- **August 20, 2012**

Commissioner Kirk moved to approve meeting minutes.

Commissioner Sanders seconded the motion.

The Commission voted 4-0 approval the August 20, 2012 meeting minutes.

- **September 6, 2012**

Commissioner Kirk moved to approve meeting minutes as revised.

Commissioner Brenckle seconded the motion.

The Commission voted 4-0 approval the September 6, 2012 meeting minutes.

Civil Penalty Appeals [2]

Public Official Financial Disclosure Statement

The following individuals were removed from the consent agenda:

- Representative Robert Herron
- Senator Lyman Hoffman
- Robert Nageak
- City of Togiak
 - Ted Sutton
- City of Holy Cross
 - Kristi Turner
 - Evan Newman
 - Rosalie Wulf
 - Rebecca Demientieff
 - Adrienne Wright
 - LaVerne Turner
 - Victor Ladeira

Commissioner Sanders moved to approve the remaining Consent Agenda items.

Commissioner Brenckle seconded the motion.

The Commission voted 4-0 to approve the Consent Agenda.

The Commission then considered the items removed from the Consent Agenda:

The Staff recommendations were presented by Paul Dauphinais, APOC Executive Director. Tom Amodio, Counsel for Representative Robert Herron and Senator Lyman Hoffman appeared telephonically and gave a statement about their 2009, 2010 & 2011 Annual LFD late filings.

Robert Herron

Late Report:

Maximum Civil Penalty:

Staff Recommendation:

Representative

2009 Annual LFD Statement

\$12,130 as filed 1213 days late @ \$10 a day

2010 Annual LFD Statement

\$8,500 as filed 850 days late of @\$10 a day

\$4,850 as filed 450 days late of @\$10 a day

Reduced by 70% to \$7644

Commissioner Kirk moved to approve staff recommendations with the revisions and modify the assessed civil penalty to 50% reduction.

The motion failed for lack of a second.

Commissioner Sanders moved to approve staff recommendations with the revisions.

Commissioner Brenckle seconded the motion.

The Commission voted 4-0 to approve the reduction of the maximum assessed civil penalty.

Commissioner Kirk moved to amend Commissioner Sanders’s motion to delete “Staff Error” and apply “maximum civil penalty assessment to significantly greater and out of proportion to the degree of harm to the public for not having the information” under the mitigation criteria on the staff recommendation. Commission Sanders and Brenckle accepted the amended motion made by Commissioner Kirk.

Lyman Hoffman

Late Report:
Maximum Civil Penalty:

Senator

2009 Annual LFD Statement
\$11,910 as filed 1191 days late @ \$10 a day
2010 Annual LFD Statement
\$8,280 as filed 828 days late of @\$10 a day
\$4,630 as filed 463 days late of @\$10 a day
Reduced by 70% to \$7446

Staff Recommendation:

Commissioner Sanders moved to approve staff recommendations with the revisions. Commissioner Kirk seconded the motion.

The Commission voted 4-0 to approve the reduction of the maximum assessed civil penalty.

During the Commission discussion, the Commission agreed to modify “staff error” to “maximum civil penalty assessment is significantly greater and out of proportion to the degree of harm to the public for not having the information” under the mitigating factor. This modification applies to the civil penalty appeals of both Representative Herron and Senator Hoffman.

Theodore (Ted) Sutton

Late Report:
Maximum Civil Penalty:
Staff Recommendation:

City Council Member – City of Togiak

2012 Annual POFD Statement
\$380 as filed 38 days late @ \$10 a day
Reduced by 70% to \$144

Commissioner Kirk moved to approve staff recommendations with the reduction of 50% assessed civil penalty.

Commissioner Sanders seconded the motion.

The Commission voted 4-0 to approve the assessed civil penalty.

The Commission asked that all of the City of Holy Cross be taken of the consent agenda for discussion. The staff recommendation is to refer the matter to Attorney General Office because the civil penalty appeal for filing their POFD statement late was not filed timely at the APOC office.

Commissioner Sanders moved to reconsider the untimely appeal filed by the City of Holy Cross.

Commissioner Kirk seconded the motion.

The Commission voted 4-0 to approve the reconsideration of the filed appeal.

Rebecca Demientieff, Mayor, and Rosalie Wulf, City Council for City of Holy Cross appeared in person, gave statements and answer questions from the Commission.

Kristi Turner

Late Report:
Maximum Civil Penalty:
Staff Recommendation:

City Council Member – City of Holy Cross

2012 Annual POFD Statement
\$280 as filed 28 days late @ \$10 a day
Refer to the Attorney General Office

Evan Newman

Late Report:
Maximum Civil Penalty:
Staff Recommendation:

City Council Member – City of Holy Cross

2012 Annual POFD Statement
\$250 as filed 25 days late @ \$10 a day
Refer to the Attorney General Office

Rosalie Wulf

Late Report:
Maximum Civil Penalty:
Staff Recommendation:

City Council Member – City of Holy Cross

2012 Annual POFD Statement
\$450 as filed 45 days late @ \$10 a day
Refer to the Attorney General Office

Rebecca Demientieff

Late Report:
Maximum Civil Penalty:
Staff Recommendation:

City Mayor – City of Holy Cross

2012 Annual POFD Statement
\$250 as filed 25 days late @ \$10 a day
Refer to the Attorney General Office

Adrienne Wright

Late Report:
Maximum Civil Penalty:
Staff Recommendation:

City Council Member – City of Holy Cross

2012 Annual POFD Statement
\$280 as filed 28 days late @ \$10 a day
Refer to the Attorney General Office

LaVerne Turner

Late Report:
Maximum Civil Penalty:
Staff Recommendation:

City Secretary Treasurer – City of Holy Cross

2012 Annual POFD Statement
\$280 as filed 28 days late @ \$10 a day
Refer to the Attorney General Office

Victor Ladeira

Late Report:
Maximum Civil Penalty:
Staff Recommendation:

City Vice-Mayor - City of Holy Cross

2012 Annual POFD Statement
\$880 as filed 28 days late @ \$10 a day
Refer to the Attorney General Office

Commissioner Sanders moved to waive all assessed civil penalty for the City of Holy Cross.

Commissioner Hickerson seconded the motion.

Commissioner Kirk moved to amend Commissioner Sanders's motion to only reduce the assessed civil penalties by 75%.

The motion to amend failed for lack of a second.

The Commission voted 4-0 to approve the waiver of all assessed civil penalties for the City of Holy Cross filers.

Candidate Campaign Disclosure:

The Staff recommendations were presented by Heather Hebdon, APOC staff. Senator Kookesh, and Nancy Gordon, Legislative aide appeared telephonically, gave statements and answered questions from the Commission.

Reggie Joule

Late Report:

Maximum Civil Penalty:

Staff Recommendation:

2000 State Election

2001 Poet Reserve Account

3,783, days late for reporting

3,432, days late for disbursement

\$360,750, Total Civil Penalty Assessments

Forfeit the entire account to the State of Alaska without penalty

Commissioner Kirk moved to approve staff recommendations.

Commissioner Hickerson seconded the motion.

The Commission voted 4-0 to have the POET account balance forfeited and waive the assessed civil penalty.

Albert Kookesh

Excess Contribution:

Maximum Civil Penalty:

Staff Recommendation:

2012 State Election

Accepted on October 20, 2011 – 117 days in violation as shown on Year-Start Report, returned on February 24, 2012

\$5,850 as filed 117 days late

Reduced by 92.5% to \$500

Commissioner Sanders moved to reduce the assessed civil penalty to \$250 based on the maximum civil penalty assessment is significantly greater and out of proportion to the degree of harm to the public for not having the information under the mitigation criteria.

The motion failed for lack of a second.

**Commissioner Kirk moved to accept staff recommendation with the change.
Commissioner Brenckle seconded the motion.
The Commission voted 4-0 to reduce the assessed civil penalty to \$500.**

OFF RECORD 9:35 a.m.

Break

ON RECORD 9:40 a.m.

Lesil McGuire

Late Report:

Maximum Civil Penalty:

Staff Recommendation:

2012 State Election

215 Year-Start Report, State Primary Election

\$14,500, 290, days late July 23rd, reporting \$10,500, 210, days late July 25th, reporting **\$25,000, Total Civil Penalty Assessments**

Reduce by 99% to \$450

- Lesil McGuire, Senator, appeared telephonically, gave a statement and answered questions from the Commission.
- John Ptacin – Attorney General Office, Department of Law, appeared telephonically, gave a statement and answered questions from the Commission.

**Commissioner Kirk moved to reject the staff recommendations.
Commissioner Brenckle seconded the motion.
The Commission voted 2-2, motion failed.**

**Commissioners Sanders moved to suspend the imposition in penalties.
The motion failed for lack of a second.**

Commissioner Hickerson moved to waive 100% of the assessed civil penalty based on the mitigating factor “maximum civil penalty assessment is significantly greater and out of proportion to the degree of harm to the public for not having the information”

Commissioner Sanders seconded the motion.

The Commission voted 4-0 approve to waive the assessed civil penalty

Paul Dauphinais, APOC Executive Director introduced Thomas Lucas as the new Associate Attorney II for APOC.

Group Campaign Disclosure:

The staff recommendations were presented by Amanda McDonald, APOC staff. Robert Lance, Treasurer, appeared telephonically, gave a statement and answered questions from the Commission.

DSA- District 7

Late Report:

Maximum Civil Penalty:

Staff Recommendation:

Robert Lance, Treasurer

2010, 2011 & 2012 Year-End Report

2010 Year-End Report

\$240, 24 days late

2011 Year-End Report

\$4,790, 479 days late

2012 Year-End Report

\$1,140, 114 days late

Waive 2011 & 2012 Year-end

Assess civil penalty of \$210

Commissioner Sanders moved to approve the staff recommendations.

Commissioner Kirk seconded the motion.

The Commission voted 4-0 approve waiving civil penalties for the 2011 and 2012 late reports and uphold the maximum civil penalty of \$210 for the 2010 year-end report.

Commissioner Hickerson moved to reconsider the first motion to waive the civil penalty 100%.

Commissioner Sanders seconded the motion.

The Commission voted 0-4 motion for reconsideration is denied

Advisory Opinion Request, Barbara Bachmeier, AO 12-17-CD [3]

The staff draft advisory opinion was presented by Heather Hebdon, APOC staff. Barbara Bachmeier, appeared in person, gave a statement and answered questions from the Commission.

Commissioner Kirk moved to approve staff draft advisory opinion.

Commissioner Brenckle seconded the motion.

The Commission voted 4-0 to approve advisory opinion AO 12-17-CD.

John Ptacin, Attorney General, Department of Law briefed regarding APA new procedures of the "Commissioner Orders".

Advisory Opinion Request, Karrsen Brannon-Young, AO 12-18-CD [4]

The staff draft advisory opinion was presented by Heather Hebdon APOC staff.

Commissioner Sanders moved to approve staff draft advisory opinion.

Commissioner Kirk seconded the motion.

The Commission voted 4-0 to approve advisory opinion AO 12-18-CD.

Advisory Opinion Request, Alex Beck, AO 12-19-CD [5]

The staff draft advisory opinion was presented by Heather Hebdon, APOC staff.

Commissioner Sanders moved to approve staff draft advisory opinion as amendment.

Commissioner Kirk seconded the motion.

The Commission voted 4-0 to approve the amended advisory opinion AO 12-19-CD.

OFF RECORD 10:55 a.m.

BREAK

ON RECORD 11:00 a.m.

Executive Director Report [7]

The director's report was presented by Paul Dauphinais, Executive Director.

Public Official Financial Disclosure (POFD), Exemption Request, Hal Gazaway [6]

The staff report was presented by Paul Dauphinais, Executive Director; Hal Gazaway, 2012 State Candidate/ requestor and John Ptacin, Attorney General, Department of Law, appeared in person, gave statements and answered questions from the Commission.

The Public Official Financial Disclosure (POFD) Exemption Request of Hal Gazaway was withdrawn as he's no longer running for the 2012 State Election. He asked for the staff and Commission to review the regulation for future.

Commissioner Sanders moved to go on executive session to obtain guidance from counsel.

Commissioner Brenckle seconded the motion.

The Commission voted 4-0 to go on executive session.

The following individuals were requested to participate the executive session; Dave Jones, and Assistant Attorney General, Department of Law.

OFF RECORD 11:30 a.m.

Executive Session

ON RECORD 12:00 p.m.

The Commission came out of executive session after conferring with the Commission counsel regarding case number **3AN-11-11636 CI, Theresa Nangle Obermeyer v. Alaska Judicial Council (AJC), 11-01-POFD.**

Commissioner Kirk recused himself from participating in the discussions concerning 3AN-11-11636 based on a litigation conflict at the time of the original Commission Hearing in this matter..

The Commission discussed the Stipulation to Dismiss Appeal and the Proposed settlement.

Commissioner Sanders moved approve the terms of the Stipulation to Dismiss Appeal.

Commissioner Brenckle seconded the motion.

The Commission voted 3-0 to approve the Stipulation to Dismiss Appeal.

Commissioner Hickerson stated on public record that the submitted Stipulation to Dismiss will be put on the public record and there will be no revision, other than the appearance of the stipulation on the Commission Order.

Public Comment [*]

- Barbara Bachmeier, appeared in person for public comment.

OFF RECORD 12:10 p.m.

LUNCH

ON RECORD 1:40 p.m.

Hearing

Joel Natwick v. George Jacko, 12-09-POFD [*]

The following individuals appeared in person and participated the hearing on expedited complaint.

- Howard Trickey, Complainant Counsel, Jermain, Dunnagan & Owens P.C,
- Bill Ingaldson, Respondent Counsel, Ingaldson, Fitzgerald P.C.
- John Ptacin, Assistant Attorney General, Department of Law

The Commission went into deliberation to consult with counsel.

OFF RECORD 2:30 p.m.

Deliberation

ON RECORD 3:15 p.m.

After the deliberation the Commission declined to consider the request for expediting the new filings. The Commission granted the opportunity for both the complainant and respondent to meet and to decide whether the request should be considered and remanded to staff for full investigation. The Commission would like to hear arguments from both parties.

The Commission recessed so that for both parties of the complaint could discuss the Commission decisions regarding the request to consider the complaint on an expedited basis.

OFF RECORD 3:17 p.m.

Recess

ON RECORD 3:37 p.m.

Both parties had the opportunity to meet and discuss their position regarding the Commission decision on the request to consider the complaint on an expedited basis.

Commissioner Sanders moved to reconsider the Order expediting consideration and to remand to staff for investigation of the complaint on a regular investigation basis with all of the investigatory powers articulated in AS 15.13.111(b)

Commissioner Brenckle seconded the motion.

Commissioner Kirk moved to amend the motion to exempt from this motion whether a civil penalty should be assessed from the period of the initial POFD filing date until the date the amended POFD was filed.

The amendment by Commissioner Kirk of the motion failed for lack of a second.

The Commission voted 3-1 to approve investigation by staff of the complaint on a regular basis.

Commissioner Sanders moved to approve consolidation of the entire complaint for investigation on a regular basis.

Commissioner Brenckle seconded the motion.

The Commission voted 4-0 to approve the consolidation of the issues.

Lobbyist/Employer of Lobbyist Training [8]

The Lobbyist/Employer of Lobbyist Training was presented by Joan Mize, Juneau, Program Coordinator II via webinar.

Revision to Lobbyist/Employer of Lobbyist Instruction Manual [9]

The Revised Lobbyist/Employer of Lobbyist Manual was presented by Joan Mize, Juneau, Program Coordinator II.

Commissioner Sanders moved to approve the revised Lobbyist/Employer of Lobbyist Manual.

Commissioner Kirk seconded the motion.

The Commission voted 4-0 to approve the revised Lobbyist Manual.

OFF RECORD 4:05 p.m.

Executive session

ON RECORD 4:25 a.m.

Commissioner Sanders moved to go on executive session to discuss personnel issues.

Commissioner Kirk seconded the motion.

The Commission voted 4-0 to approve going to executive session.

The meeting adjourned at 4:45 p.m. after executive session the Commission did not go back to the public record.

**Adjourned
OFF RECORD 4:45 p.m.**