

**WISCONSIN STATE ELECTIONS BOARD
Brookfield City Hall, Common Council Chambers
2000 North Calhoun Road
Brookfield, Wisconsin
December 1, 2004
9:30 a.m.**

Minutes

Board Members Present: John Savage, Patrick Hodan, Kirby Brant, Carl Holborn, Martha Love, Donald Goldberg, John Schober, Shane Falk and Gordon Myse

Staff Members Present: Kevin Kennedy, George Dunst, Barbara Hansen, Sharrie Hauge

9:37 a.m. The meeting was called to order by Elections Board Chair John Schober.

I. Signing of Official Canvass of the November 2, 2004 Election Results

The Board Chair signed the canvass.

II. Minutes of Previous Elections Board Meetings

A. October 20, 2004 Elections Board Meeting

MOTION: APPROVE MINUTES OF THE OCTOBER 20, 2004 ELECTIONS BOARD MEETING. Motion by John Savage, seconded by Donald Goldberg. Motion carried.

III. Personal Appearances

1. **Mark Wehrly** appeared in support of the Elections Board intervention in the Oshkosh direct legislation litigation by filing a brief amicus curiae. Materials pertaining to his appearance are set out on pages 95-102.

Judge Myse abstained from discussing Agenda Item V. B. because he was the mediator in the court ordered mediation of this case.

V. Litigation

B. Request to Intervene in Oshkosh Direct Legislation Litigation

MOTION: REJECT THE REQUEST TO INTERVENE AND REVIEW THE REQUEST AGAIN IF IT GETS TO THE APPELATE LEVEL. Motion by John Savage, seconded by Shane Falk. Motion carried on a roll call vote.

Yes – Shane Falk, Carl Holborn, John Savage, Patrick Hodan, John Schober

No – Kirby Brant, Donald Goldberg, Martha Love

Abstained – Gordon Myse

III. Personal Appearances (continued)

2. **Sheryl Albers** appeared in response to the Thompson Complaint Against Albers Relating to Failure to Disclose Contribution ElBd Cpt. 04-15. Materials pertaining to her appearance are set out on pages 50-65.

C. Thompson Complaint Against Albers Relating to Failure to Disclose Contribution ElBd Cpt. 04-15.

MOTION: EXTEND SETTLEMENT OFFER TO THE ALBERS CAMPAIGN COMMITTEE OF \$150 PLUS DIRECT THE \$500 CONTRIBUTION TO A BONAFIDE CHARITY, THE COMMON SCHOOL FUND OR THE WECF. Motion by Gordon Myse, seconded by Donald Goldberg. Motion carried on a roll call vote.

Yes – Donald Goldberg, Patrick Hodan, Carl Holborn, Gordon Myse, Shane Falk, John Schober
No – Martha Love, John Savage, Kirby Brant

III. Personal Appearances (continued)

3. **Rick Wiley** appeared representing the Republican Party of Wisconsin in support of the campaign finance complaints he filed. Materials pertaining to his appearance are set out on pages 28-49 and pages 76-94.

IV. Investigations (continued)

- B. Wiley Complaint Against Kuester for Assembly Committee Relating to Undisclosed Contributions EIBd Cpt. 04-05**

MOTION EXTEND SETTLEMENT OFFER OF \$114 TO KUESTER FOR ASSEMBLY CAMPAIGN RELATING TO UNDISCLOSED CONTRIBUTIONS. Motion by John Savage, seconded by Gordon Myse. Motion carried. Note Kirby Brant objected.

III. Personal Appearances (continued)

4. **Mike Maistelman** appeared representing Senator Mark Miller in response to the Wiley Complaint Against Miller and Friends of Mark Miller Relating to Political Solicitation of Public Employee at Place of Employment. Materials pertaining to his appearance are set out on pages 76-94.
- E. Wiley Complaint Against Miller and Friend of Mark Miler Relating to Political Solicitation of Public Employee at Place of Employment**

MOTION: FIND THE CAMPAIGN ACTED IN GOOD FAITH AND DISMISS THE COMPLAINT WITHOUT PENALTY. Motion by Carl Holborn, seconded by Kirby Brant. Motion carried.

10:50 a.m. The Board took a brief break. The meeting resumed at 10:57 a.m.

III. Personal Appearances (continued)

5. **Donald Austin** filled out an appearance slip, but had to leave before being able to appear with respect to item VI. A.
6. **Heidi Holstad** appeared before the Board representing the AFT-Wisconsin in opposition of the Elections Board Statewide Voter Registration contract with Accenture. Ms. Holstad asked the Board to provide a cost benefit analysis or demonstrate what effort was made to consider the feasibility of having public employees perform the Statewide Voter Registration work.
7. **Tom Ellett** appeared on behalf of the AFT-Wisconsin in opposition of the Elections Board Statewide Voter Registration contract with Accenture.

8. **Mike McCabe** appeared on behalf of the Wisconsin Democracy Campaign in opposition of the Elections Board Statewide Voter Registration contract with Accenture.
9. **Phyliss Hasbrouck** appeared in opposition of the Elections Board Statewide Voter Registration contract with Accenture.
10. **Edyth Kirschling** appeared to comment on the handling of Statewide Voter Registration System. As a citizen, she would like assurance that the oversight will be thorough and strict and she wants to be informed about what's going on. She wants to have confidence in the system.

VI. Election Administration

A. Report on Statewide Voter Registration System

This report was presented for information. No action was taken by the Board.

12:00 noon The Elections Board adjourned for lunch. The meeting was called back to order at 1:00 p.m.

MOTION: THE ELECTIONS BOARD GO INTO CLOSED SESSION PURSUANT TO SECTION 19.85 (1) (g) WIS. STATS. TO CONFER WITH LEGAL COUNSEL CONCERNING STRATEGY WITH RESPECT TO LITIGATION THAT THE BOARD IS OR IS LIKELY TO BECOME INVOLVED. Motion by John Savage, seconded by Shane Falk. Kirby Brant asked the record reflect his concern about going into closed session. Motion carried on a roll call vote.

Yes – Carl Holborn, Gordon Myse, Shane Falk, John Schober, Martha Love, Donald Goldberg, Patrick Hodan, John Savage.

No - Kirby Brant

IV. Litigation

A. Closed Session Pursuant to S.19.85 (1) (g), Wis. Stats., to Confer with Legal Counsel Concerning Strategy with Respect to Litigation that the Board Is or Is Likely to Become Involved.

MOTION: RETURN TO OPEN SESSION. Motion by Gordon Myse, seconded by John Savage.

Yes – John Savage, Patrick Hodan, Martha Love, John Schober, Shane Falk, Gordon Myse, Carl Holborn, Kirby Brant, Donald Goldberg.

The Board returned to open session.

MOTION: MOVE TO RECONSIDER THE BOARD VOTE FROM THE OCTOBER 20, 2004 MEETING ASKING THE LEGISLATURE TO REQUIRE PICTURE ID FOR VOTING. Motion by Patrick Hodan, seconded by John Savage. John Savage seconded the motion in deference to concerns raised by Board members not present at the last meeting. Motion carried on a roll call vote.

Yes – Carl Holborn, Gordon Myse, Shane Falk, John Schober, Martha Love, Donald Goldberg, Patrick Hodan, John Savage

No - Kirby Brant

MOTION: WITHDRAW OCTOBER 20, 2004 MOTION ON PICTURE ID Motion by John Savage. Kirby Brant did not withdraw his second.

MOTION: TABLE BOARD ACTION ON PICTURE ID. Motion by Gordon Myse, seconded by Martha Love. Motion carried on a roll call vote.

Yes – John Savage, Patrick Hodan, Donald Goldberg, Martha Love, John Schober, Kirby Brant, Shane Falk, Gordon Myse, Carl Holborn

IV. Investigations

A. Appeal of Settlement Offers for Violations Identified by Staff Audit

MOTION: UPHOLD SETTLEMENT OFFER OF \$150 FOR MORGAN FOR ASSEMBLY (103993) FOR LATE FILING OF THE 2004 FALL PRE-ELECTION REPORT. Motion by John Savage, seconded by Kirby Brant. Motion carried.

MOTION: HAVE STAFF FURTHER INVESTIGATE FRIENDS OF CHRIS SERIO (104231) ENSURING THE COMMITTEE WAS REQUIRED TO ELECTRONICALLY FILE THEIR REPORT. IF THE REQUIREMENT WAS NECESSARY, UPHOLD SETTLEMENT OFFER. Motion by Gordon Myse, seconded by Patrick Hodan. Motion carried.

MOTION: UPHOLD SETTLEMENT OFFER OF \$125 FOR ST. CROIX COUNTY DEMOCRATIC PARTY (300048) FOR THE NON-FILING OF THE ELECTRONIC 2004 FALL PRE-ELECTION REPORT. Motion by John Savage, seconded by Patrick Hodan. Motion carried.

D. Ziller Complaint Against Bakke Norman, S.C., and Bakke for State Senate Committee relating to Alleged Corporate Contribution

MOTION: DISMISS THE COMPLAINT. Motion by John Savage, seconded by Patrick Hodan. Motion carried.

V. Litigation

C. Report of Legal Counsel

This report was presented for information. No action was taken by the Board.

VI. Election Administration

B. Report of Elections, Training and Information Technology Director

This report was presented for information. No action was taken by the Board.

VII. Campaign Finance Administration

A. Report of Campaign Finance and Agency Operations Director

This report was presented for information. No action was taken by the Board.

B. Report on Collection of Settlement Offers

This report was presented for information. No action was taken by the Board.

VIII. Legislation

A. Proposed Campaign Finance Legislation

The Board directed the Executive Director to submit legislation adjusting the contribution and reporting thresholds. The Board also agreed that legislation should be introduced removing the references to 2001 Act 109 that were invalidated by the federal district court in *Wisconsin Realtors Association et al. v. Ponto et al.*, 233 F. Supp. 2d 1078 (2002).

IX. Agency Administration

A. Report of Executive Director

This report was presented for information. No action was taken by the Board.

MOTION: HOLD NEXT BOARD MEETING IN BROOKFIELD ON JANUARY 26, 2005. Motion by John Savage, seconded by Patrick Hodan. Motion carried.

Gordon Myse requested staff to provide a report to the Board at its next meeting on adopting an administrative rule that governs the transfer of campaign money gathered as a federal officeholder for use in a state campaign or a state officeholder using state campaign funds for a federal election.

MOTION: ADJOURN THE ELECTIONS BOARD MEETING. Motion by John Savage, seconded by Shane Falk. Motion carried.

3:10 p.m. The Elections Board meeting adjourned.

The next meeting of the State Elections Board is scheduled for Wednesday, January 26, 2005 in Brookfield.