

WISCONSIN STATE ELECTIONS BOARD
G. A. R. Memorial Hall, Room 417 North
State Capitol Building
Madison, Wisconsin
May 19, 2004
9:30 a.m.

Minutes

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

Board Members Absent: Kirby Brant

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 Shane Falk

New staff introductions. Barbara Hansen introduced the 4-new Elections Specialists.

I. Minutes of Previous Elections Board Meetings

A. March 10, 2004 Elections Board Meeting

MOTION: APPROVE MINUTES OF THE MARCH 10, 2004 ELECTIONS BOARD MEETING. Motion by John Savage, second by Donald Goldberg. Motion carried.

II. Personal Appearances

Ms. Debi Krueger and **Mr. Tom Lynch** appeared on behalf of the La Crosse County Republican Party (300096) to appeal the settlement offer for the late payment of the 2003 filing fee. Information relating to their appearance is set out at pages 12-14 of the Elections Board meeting materials.

III. Investigations

A. Appeal of Settlement Offer for Violation Identified by Staff Audit

MOTION: REIMBURSE DEBORAH KRUEGER \$200 FOR THE LATE PAYMENT OF THE LACROSSE COUNTY REPUBLICAN PARTY'S (300096) JANUARY 2003 FILING FEE. Motion by John Savage, second by Shane Falk. Motion carried.

II. Personal Appearances (continued)

Mr. Al Labelle, treasurer, appeared on behalf of the to Wood County Democratic Party (300250) to appeal the settlement offer for the late filing of the January 2004 continuing report. Information relating to his appearance is set out at pages 8-11 of the Elections Board meeting materials.

III. Investigations

A. Appeal of Settlement Offer for Violation Identified by Staff Audit

MOTION: ABATE THE SETTLEMENT OFFER OF \$125 FOR THE WOOD COUNTY DEMOCRATIC PARTY (300250) FOR THE LATE FILING OF THE JANUARY 2004 CONTINUING REPORT. Motion by Gordon Myse, second by John Savage. Motion carried.

III. Personal Appearances (continued)

Mike McCabe and **Kira Loehr** appeared on behalf of the Wisconsin Democracy Campaign to address agenda items IV (a) and IV (b) relating to proposed changes to ElBd 1.28 relating to the regulation of issue advocacy and ElBd. 1.46 relating to return of improperly itemized contributions. Information relating to their appearance is set out at pages 15-80 and pages 81-83 of the Elections Board meeting materials.

Matt O'Neill appeared on behalf of WEAC to address the proposed changes to ElBd 1.28. Information relating to his appearance is set out at pages 15-80 of the Elections Board meeting materials.

Mike Wittenwyler appeared to discuss the proposed changes to ElBd 1.28. Information relating to his appearance is set out at pages 15-80 of the Elections Board meeting materials.

IV. Administrative Rules

A. Proposed Changes to Definition of Political Purpose in ElBd 1.28, Wis. Adm. Code Adding Electioneering Communication to the Scope of Regulation.

MOTION: ADOPT THE PROPOSED RULE IN THE BOARD MATERIALS ADDING THE SUBSECTION THAT WAS IN THE MATERIALS ORIGINALLY DISTRIBUTED BY THE WISCONSIN DEMOCRACY CAMPAIGN TREATING A DISBURSEMENT TO MAKE AN ELECTIONEERING COMMUNICATION AS MADE FOR A POLITICAL PURPOSE. Motion by Gordon Myse, second by Donald Goldberg.

AMEND THE ORIGINAL MOTION TO INCLUDE THE REFERENCE TO "MAKING AN ELECTIONEERING COMMUNICATION IN THE LIST OF TERMS THAT ARE DESCRIBED AS EXPRESS ADVOCACY IN EL BD 1.28 (2)(C). Motion by Gordon Myse, second by Shane Falk. Motion withdrawn.

Carl Holborn requested the staff to revise the rule one more time before he vote in favor of it.

The original motion failed on a roll call vote.

Yes – Donald Goldberg, Gordon Myse, Shane Falk

No – John Savage, Patrick Hodan, Martha Love, Carl Holborn, John Schober

MOTION: REVISIT THE PROPOSED RULE AT A LATER DATE. Motion by Carl Holborn. The motion failed for lack of a second.

MOTION: ADOPT THE RULE WITH AN EFFECTIVE DATE OF DECEMBER 1, 2004. Motion by Donald Goldberg, second by Shane Falk. Motion withdrawn.

Chair Shane Falk indicated he would call a June meeting and make a motion to submit the proposed rule to the legislative council to get their advisory comments on the proposed rule.

MOTION: SUBMIT PROPOSED RULE TO LEGISLATIVE COUNCIL AND TABLE THE DISCUSSION OF THE PROPOSAL UNTIL THE BOARD'S SEPTEMBER 1, 2004 MEETING. Motion by Gordon Myse, second by Shane Falk. Motion carried.

V. Litigation

A. Report of Legal Counsel

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

VI. Election Administration

A. Report on Statewide Voter Registration System

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

B. Report of Elections, Training and Information Technology Director

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

C. Proposed Ballot Format Change

MOTION: ADOPT A PILOT PROGRAM FOR CENTRAL COUNT OPTICAL SCAN BALLOTS IN KEWAUNEE COUNTY FOR PARTISAN PRIMARIES ONLY USING THE COLOR WASH BALLOT TO DISTINGUISH POLITICAL PARTIES. ROTATE THE COLORS AMONG POLITICAL PARTIES. Motion by Donald Goldberg, second by Carl Holborn. Motion carried.

12:35 p.m. The Board took a lunch break. Shane Falk left the meeting.

12:55 p.m. The Elections Board meeting was called back to order by Elections Board Vice-Chair, Martha Love.

IV. Administrative Rules (continued)

C. Proposed Administrative Rules Relating to Confidentiality of Certain Information On Voter Registration Cards

MOTION: PROVIDE THE BOARD WITH A DRAFT RULE AT THE JULY MEETING ON THE CONFIDENTIALITY OF CERTAIN INFORMATION ON VOTER REGISTRATION CARDS. Motion by John Savage, second by Patrick Hodan. Motion carried.

D. Status of Pending Administrative Rules

MOTION: DEFER PROMULGATING RULES PROVIDING TIME FOR CANDIDATES ON FREE ACCESS CABLE CHANNELS AND PUBLIC TELEVISION UNTIL JANUARY 2005. Motion by John Savage, second by Martha Love. Motion carried.

VII. Legislation

A. Legislative Status Report

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

B. Summary of Election Law Changes

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

VIII. 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.

IX. Formal Opinions

A. Proposed Formal Opinion Relating to Linking to or Listing a Government Website or E-mail Address in Registrant Communications

MOTION: ADOPT ALTERNATIVES 1A AND 2A AS A FORMAL OPINION. Motion by Donald Goldberg, second by John Savage. Motion carried.

X. Agency Administration

A. Report of Executive Director

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

IV. Administrative Rules (continued)

B. Proposed Changes to Definition of Political Purpose in ElBd 1.46, Wis. Adm. Code Adding Requirement to Return Contributions Not Properly Itemized.

MOTION: RETURN PROPOSED CHANGES TO LEGAL COUNSEL TO REDRAFT RULE AND SUBMIT SAMPLE COMMUNICATION TO REGISTRANTS. Motion by John Savage, second by Patrick Hodan. Motion carried.

Notes:

- Treat contribution without identifying information as an illegal contribution
- \$250 trigger
- 45 day grace period

MOTION: ELECTIONS BOARD ADJOURN. Motion by John Savage, second by Patrick Hodan. Motion carried.

The Elections Board meeting adjourned at 1:58 p.m.

The next meeting of the State Elections Board will be held on Wednesday, July 21, 2004 beginning at 9:30 a.m. in G. A. R. Memorial Hall, Room 417 North at the State Capitol Building in Madison.