

WISCONSIN STATE ELECTIONS BOARD
Brookfield City Hall, Common Council Chambers
2000 North Calhoun Road
Brookfield, Wisconsin
January 26, 2005
9:30 a.m.

Minutes

Board Members Present: John Savage, Patrick Hodan, Kirby Brant, Carl Holborn, Martha Love, John Schober, Shane Falk and Gordon Myse (via telephone)

Board Members Absent until 1:00 p.m.: Donald Goldberg.

Staff Members Present: Kevin Kennedy at 9:45 a.m., George Dunst, Barbara Hansen, Sharrie Hauge

9:38 a.m. The meeting was called to order by Elections Board Chair John Schober.

I. Minutes of Previous Elections Board Meetings

A. December 1, 2004 Elections Board Meeting

MOTION: APPROVE MINUTES OF THE DECEMBER 1, 2004 ELECTIONS BOARD MEETING. Motion by Carl Holborn, seconded by John Savage. Motion carried.

B. January 13, 2005 Elections Board Meeting

MOTION: APPROVE MINUTES OF THE JANUARY 13, 2005 ELECTIONS BOARD MEETING. Motion by John Savage, seconded by Shane Falk. Motion carried.

II. Personal Appearances

1. **Don Millis** appeared on behalf of Smoke Free Wisconsin, Margaret Davey and Breathe Free Oshkosh to speak in support of his request that the Board adopt the proposed resolution set out at Agenda Item VIII. B.

By unanimous consent the Elections Board agreed to take item out of order.

VIII. Litigation

B. Request for the Filing of a Brief Amicus Curiae for Oshkosh Direct Legislation Litigation

MOTION: ADOPT THE RESOLUTION. Motion by Kirby Brant. No second.

MOTION: DO NOT INTERVENE OR ADOPT THE RESOLUTION. Motion by Shane Falk, second by John Savage. Motion carried on a roll call vote.

ROLL CALL VOTE

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

Gordon Myse did not participate

II. Personal Appearances (continued)

2. **Bruce Schucknect** appeared to contest the \$150 settlement offer to his campaign committee for the late filing of the Pre-Primary Campaign Finance Report. Information relating to his appearance is set out at pages 11 and pages 49-51 of the Elections Board materials.

By unanimous consent the Elections Board agreed to take item out of order.

III. Investigations

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

MOTION: REDUCE THE SETTLEMENT OFFER TO FRIENDS OF BRUCE SCHUKNECHT COMMITTEE (104338) TO \$75.00 FOR THE LATE FILING OF THE PRE-PRIMARY FALL CAMPAIGN FINANCE REPORT. Motion by Kirby Brant, seconded by John Schober. Motion carried 5 - 3 on a roll call vote.

ROLL CALL VOTE

Yes – Patrick Hodan, Kirby Brant, John Savage, Shane Falk, John Schober

No – Martha Love, Carl Holborn, Gordon Myse

II. Personal Appearances (continued)

3. **Jay Nixon** appeared to contest the \$100 settlement offered imposed to his committee for the non-filing of the July Continuing Report. Information relating to his appearance is set out at pages 9-48 of the Elections Board meeting materials.

III. Investigations

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

MOTION: DENY REQUEST TO ADJUST OR REDUCE THE SETTLEMENT OFFER TO FRIENDS OF JAY K. NIXON (104221) FOR THE NON-FILING OF THE JULY 2004 CONTINUING REPORT. Motion by Shane Falk, seconded by John Savage. Motion carried unanimously.

MOTION: IF THE \$100 SETTLEMENT OFFER IS NOT PAID BY THE END OF THE BUSINESS DAY, THURSDAY, JANUARY 27, 2005, DIRECT LEGAL COUNSEL TO PURSUE CIVIL ACTION. Motion by Shane Falk, seconded by John Savage. Motion carried unanimously.

MOTION: REJECT RECONSIDERATION REQUEST OF HINKFORTH FOR ASSEMBLY (104559) TO WAIVE THE \$150 SETTLEMENT OFFER. EXTEND THE \$150 SETTLEMENT OFFER TO BE PAID WITHIN 10-DAYS, IF THE SETTLEMENT OFFER IS NOT PAID, THEN FILE SUIT. Motion by Shane Falk, seconded by Carl Holborn. Motion failed.

MOTION: DIRECT STAFF TO CONTACT MR. HINKFORTH EITHER IN WRITING OR BY TELEPHONE AND LET HIM KNOW THAT IF HE FILES FOR AN EXEMPTION OR TERMINATION IF HE IS ELIGIBLE AND FILES THE MISSING PRE-ELECTION REPORT THE SETTLEMENT OFFER WILL BE WAIVED. Motion by Patrick Hodan, seconded by John Savage. Motion carried by voice vote.

MOTION: DENY THE REQUEST TO WAIVE THE SETTLEMENT OFFER TO FRIENDS OF SCOTT NELSON (104325) FOR \$150 FOR THE NON-FILING OF THE PRE-ELECTION FALL CAMPAIGN FINANCE REPORT. Motion by Patrick Hodan, seconded by John Savage. Motion carried.

10:45 a.m. The Board chair called for a break.
10:58 a.m. The Board chair called the meeting back to order.

III. Investigations

B. Tlusty Complaint Against All Children Matter Committee Relating to Failure to Register and Disclose Campaign Activity ElBd Cpt. 2004-21

MOTION: DISMISS THE COMPLAINT AGAINST ALL CHILDREN MATTER COMMITTEE RELATING TO FAILURE TO REGISTER AND DISCLOSE CAMPAIGN ACTIVITY ELBD CPT.2004-21. Motion by John Savage, seconded by Kirby Brant. Motion carried.

C. Muller Complaint Against Pfaff for State Senate Committee relating to Failure to Include Attribution Statement on Campaign Literature ElBd Cpt. 2004-23

MOTION: DISMISS COMPLAINT AND INSTRUCT STAFF TO PREPARE A REPORT ON THE LEGIBILITY OF DISCLAIMERS ON CAMPAIGN LITERATURE. Motion by Gordon Myse, seconded by John Savage. Motion carried unanimously.

AMENDMENT: TO DELETE THE PART ABOUT STAFF PREPARING A REPORT. Motion by Kirby Brant. No second.

12:05 p.m. The Board chair called for a break.
12:18 p.m. The Board chair called the meeting back to order.

IV. Election Administration

A. Report on State Procurement for Statewide Voter Registration System

MOTION: THAT THE STATE ELECTIONS BOARD ACCEPT THE REPORT OF ITS STAFF ON THE SVRS PROCUREMENT PROCESS, ENDORSE THE STAFF'S CONDUCT OF THE PROCESS INCLUDING THE SIGNING OF THE CONTRACT BY THE BOARD'S EXECUTIVE DIRECTOR. Motion by Gordon Myse, seconded by Shane Falk. Motion passed on a roll call vote.

ROLL CALL VOTE

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

Abstained – Donald Goldberg

1:00 p.m. Donald Goldberg joined the meeting.

B. Report on Statewide Voter Registration System

MOTION: DIRECT THE PROJECT MANAGERS AND DELOITTE CONSULTANTS TO DEVELOP A CONTINGENCY PLAN IN THE EVENT THERE IS A DEFAULT

BY ACCENTURE. Motion by Shane Falk, seconded by Gordon Myse. Motion carried unanimously.

MOTION: GO INTO CLOSED SESSION PURSUANT TO S.19.85 (1) (G), WIS. STATS., TO CONFER WITH LEGAL COUNSEL CONCERNING LITIGATION STRATEGY IN WHICH THE AGENCY IS INVOLVED. Motion by John Savage, seconded by Donald Goldberg. Motion passed unanimously on a roll call vote.

ROLL CALL VOTE

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

1:35 p.m. The Board went into closed session.

VIII. Litigation

A. Closed Session Pursuant to S.19.85 (1) (g), Wis. Stats., to Confer with Legal Counsel Concerning Litigation Strategy

MOTION: RETURN TO OPEN SESSION. Motion by John Savage, seconded by Patrick Hodan. Motion passed unanimously on a roll call vote.

ROLL CALL VOTE

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

2:00 p.m. The Board returned to open session.

MOTION: ACCEPT AGENDA ITEMS IV. C, IV. D, V. A., AND V.B., STAFF'S WRITTEN REPORTS AS PRINTED. Motion by John Savage, seconded by Shane Falk. Motion carried.

IV. Election Administration

C. Election Administration Report

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

D. Report on 2005 Spring Ballot Access

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

V. Campaign Finance Administration

A. Report of Campaign Finance and Agency Operations Director

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

B. Staff Report on Collection of Settlement Offers

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

VI. Agency Administration

A. Delegation of Authority to Executive Director

MOTION: THE ELECTIONS BOARD DELEGATE THE SPECIFIC AUTHORITY DESCRIBED IN THE STAFF MEMORANDUM TO EXECUTIVE DIRECTOR AS RECOMMENDED BY THE STAFF. Motion by John Savage, seconded by Gordon Myse. Motion carried on a roll call vote.

ROLL CALL VOTE

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

B. Report of Executive Director

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

VII. Administrative Rules

A. Review of ElBd 1.39 Relating to Conversion of Federal Candidate Campaign Committee to a State Candidate Committee

MOTION: PROPOSE A RULE UNDER THE ELECTIONS BOARD'S RULE MAKING AUTHORITY TO PROHIBIT THE CONVERSION OF FEDERAL CAMPAIGN ACCOUNTS TO STATE CAMPAIGN ACCOUNTS. Motion by Gordon Myse, seconded by Shane Falk. Motion carried unanimously on a roll call vote.

ROLL CALL VOTE

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

MOTION: THE ELECTIONS BOARD PROMULGATE AN EMERGENCY RULE THAT THE EXPENDITURES FROM CONVERTED FEDERAL ACCOUNTS MUST MEET STATE INDIVIDUAL AND COMMITTEE CONTRIBUTION LIMITS. Motion by Shane Falk, seconded by Donald Goldberg. Motion carried on 5 - 4 roll call vote.

ROLL CALL VOTE

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

MOTION: HOLD NEXT BOARD MEETING IN MADISON. Motion by Gordon Myse, seconded by Kirby Brant. Motion failed on a roll call vote.

ROLL CALL VOTE

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

MOTION: HOLD NEXT MEETING IN BROOKFIELD. Motion by John Savage, seconded by Patrick Hodan. Motion carried.

VIII. Litigation

C. Report of Legal Counsel

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

IX. Legislation

A. Proposed Election Related Legislation

By the direction of the Board, this report was tabled until the next meeting.

B. Legislative Status Report

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

MOTION: ADJOURN THE ELECTIONS BOARD MEETING. Motion by John Savage, seconded by Patrick Hodan. Motion carried.

3:50 p.m. The Elections Board meeting adjourned.

The next meeting of the State Elections Board is scheduled for Wednesday, March 9, 2005 beginning at 9:30 am in the Common Council Chambers at the Brookfield City Hall, 2000 North Calhoun Road, Brookfield, Wisconsin.