

Agenda

Item #11



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: October 26, 2008

Re: Question on Maine Clean Election Act Spending from Belinda Gerry

Yesterday (Saturday), we received the attached question from Belinda Gerry. She is a former member of the State House of Representatives from Auburn who is running for election to the House as a Maine Clean Election Act candidate.

In summary, Ms. Gerry asks two questions:

- (1) Can Ms. Gerry and other MCEA candidates in the Auburn-Lewiston area use their MCEA funds to pay for a shuttle bus to transport voters to the polls?
- (2) If Ms. Gerry cannot use MCEA funds to pay for a shuttle bus, may she use personal funds for this purpose without making a contribution to her campaign?

Under the Commission's 2008 Expenditure Guidelines (attached), candidates may not use Maine Clean Election Act funds to promote political or social positions or causes other than the candidate's campaign. The staff is unclear at this point whether Ms. Gerry would be using the shuttle bus primarily to promote her campaign or to facilitate voting generally.

Belinda Gerry
For State Representative
143 Mill St, Apt. 209
Auburn, Maine 04210
784-8458 or 689-4970

Authorized and Paid for by the candidate, 143 Mill St., Apt. 209 Auburn, ME 04210 784-8458

Commission Members
% Maine Commission on Governmental Ethics
And Election Practices
242 State Street
Augusta, Maine 04333

10/24/08

Dear Commission Members:

I am sorry that I am writing to you so late but this issue came up late Thursday afternoon. Sandra Thompson, my Candidate Registrar was called immediately after the subject was posed to me to find out if I could use some of my clean election candidate funds to chip in \$50.00 to \$100.00 dollars with other clean or traditional candidates and the City of Auburn to pay for a shuttle bus to bring voters to the polls and I guess I left her speechless. She said she'd have to speak with Mr. Jonathan Wayne, Executive Director, for clarification and would get back to me.

Friday morning she got back to me and said it would be better if I posed the question and questions to your commission members because you would have to address the issue since it isn't covered in the allowable candidate expenditures.

I may or may not be able to get to your commissioners meeting Monday so I am including everything I can think of in this correspondence.

I would like to thank you for the time you are going to put into reading this, in answering my questions posed and any other question your commission comes up with.

Respectfully,

Belinda Gerry

SHORT VERSION:

Question 1. Can we, clean candidates, chip in together with other candidates clean or traditional and use some of our campaign money to pay for a shuttle bus to transport those voters without transportation and those who are conserving their gas to the polls? (Parking is also limited at these polling places)

Question 2. Can I, if no other candidates decide to pay for this service, give a token payment of \$50.00 to \$100.00 to the City of Auburn out of my clean election funding towards this shuttle bus to the polling places?

Question 3. If I can't give money from my clean election candidate's funds can I pay towards it using my own personal money or will you fine me if it gets out I paid money toward this service?

Currently we can pay volunteers that provide a service to our campaign like to drive people to the polls or at least pay mileage. Campaigns in the past (and even now) have had trouble finding drivers to cart people to the polls. One factor is more and more disabled people and seniors are requesting rides because they feel a need to vote in person like most voters and regular vehicles aren't equipped to transport them.

Question 4. The next big factor for our volunteer drivers is liability insurance and who is responsible in case of an accident or if any person gets hurt just getting in or out of the vehicle - the driver's insurance or and the candidate, the driver is transporting people in behalf of?

Question 5. Is the candidate responsible for all of the volunteer driver's actions whether good or bad during the time the driver is providing this service?

Question 6. Wouldn't it make more sense to use a vehicle that is already equipped to transport people with physical difficulties and have insurance in case of an accident and other related instances like the Shuttle bus?

These drivers are already screened by the company and trained in customer service and can deal with difficult situation that could come up through out the day.

You might think or suggest absentee ballots are a solution to the problem but they aren't always the way to go if the voter is determined to go to the polls to vote. It can cause a lot of extra work for the City Clerk's office to keep up with the absentee requests when they are in the thick of things trying to register new voters and keep it straight where to direct people to the polls they belong in as well as settling any other problems that happen at the polling places.

Question 7. Wouldn't it be more prudent to use the shuttle if it would cost me less to pay for that service than it would cost me to me to hire volunteers and pay mileage?

IF YOU SAY YES

If you say we or I can give towards this project I will talk with the City of Auburn to see if it is still possible to obtain this shuttle. I will call all of Auburn's House and Senate candidates (as well as the couple of candidates that have talked to me already and don't want their names mentioned if this is a bust.) if it is still possible and ask if they would like to go in with me and help pay towards this service. The option will be given to all candidates.

I have talked with Phil Nadeau, Lewiston Auburn Transit Committee Chairperson and Lewiston's Deputy City Administrator, and he filled me in on some of the costs involved. To begin with to operate the shuttle we need to come up with at least \$600.00 (each, if both city agrees). The service would possibly be advertised to run from 8:00 a.m. to 4:00 p.m. in order for all passengers to be able to make their final connection home on the regular bus routes but would be contracted with the bus company to run from 7:00 a.m.-5:00 p.m. We have to pay for the shuttle's travel time to and from the central bus hub location in Auburn. And then use the extra hour at the end to cover any passengers left at any of the polling places accidentally making sure that they are not stranded and have a way home.

The Election Shuttle would pick up people at the bus station hub and on route delivering them to their polling place and then return for them on the next trip bringing them back to where they were picked up. The shuttle bus is projected to make this trip every hour.

The City of Auburn's City Council would then have to decide if they are going to let all Auburn bus patrons ride the bus free on the regular routes and the voting shuttle or just the voting shuttle. If it is a "free ride" Election Day then the city has to come up with the fares the Lewiston Auburn Transit

Committee would loose for that day's fare box. Mr. Nadeau came up with the cost of \$2700.00 divided in two and Auburn's share would be like \$1350.00.

Word concerning this service would be posted in each regular transit bus, in our locate newspapers, on the radio, at City Hall, on the cable announcement channels and any other way we can get the word out. In these announcements it can be included that these candidates and the City came together in a bi-partisan effort to make this Election Day Shuttle possible because we believe it is important that all individuals have the right and way to vote.

(I don't in vision candidates riding the shuttle unless they themselves need transportation to their polling place.)

Background Information

Lewiston and Auburn jointly run Lewiston Auburn Transit Committee. Auburn's buses currently only go by two of Auburn's 5 polling places – Ward 1 Washburn School and Ward 3 Auburn City Hall. Ward 5 was changed recently from the Boys and Girls Club (which was previously on a bus route) in downtown New Auburn to Sherwood Height School may blocks away –a bit farther than most are willing or able to walk.

The Two City councils have discussed the issue separately. After the last Lewiston City Council meeting an article appeared in the Lewiston Sun Journal which in part was the spark that made the call that came to me Thursday afternoon on whether I could or could chip in with other candidates

No shuttle to the polls

By Scott Taylor, LSJ Staff Writer
Wednesday, October 22, 2008

LEWISTON - Voters will have to rely on the political parties to get rides to the polls on Election Day, councilors said Tuesday.

The city won't offer a shuttle to the polling places or any kind of bus service. Instead, voters can call representatives from the political parties for rides, vote by absentee ballot or vote early.

"It seems to me that people will be able to find a way to vote," Councilor Tom Peters said. "It's been this way for decades, and I see no reason to change it."

Councilors began discussing the idea earlier this month.

The city is providing fewer polling places this year, moving Ward 4's voters from the Hillview Community Center to the Multi-Purpose Center on Birch Street. Representatives from the Androscoggin County Democrats said it would make it more difficult for Ward 4's voters, and they urged councilors to do something to make it easier.

Councilors asked staff to look into creating a special shuttle for voters. The shuttle would carry residents from the city's Oak Street bus station to the Multi-Purpose Center to vote.

That proposal had grown by Tuesday night. Deputy City Administrator Phil Nadeau said the latest plan called for running an hourly shuttle to all of the city's four polling places. That would run from about 7 a.m. to 5:15 p.m. and would cost the city about \$500.

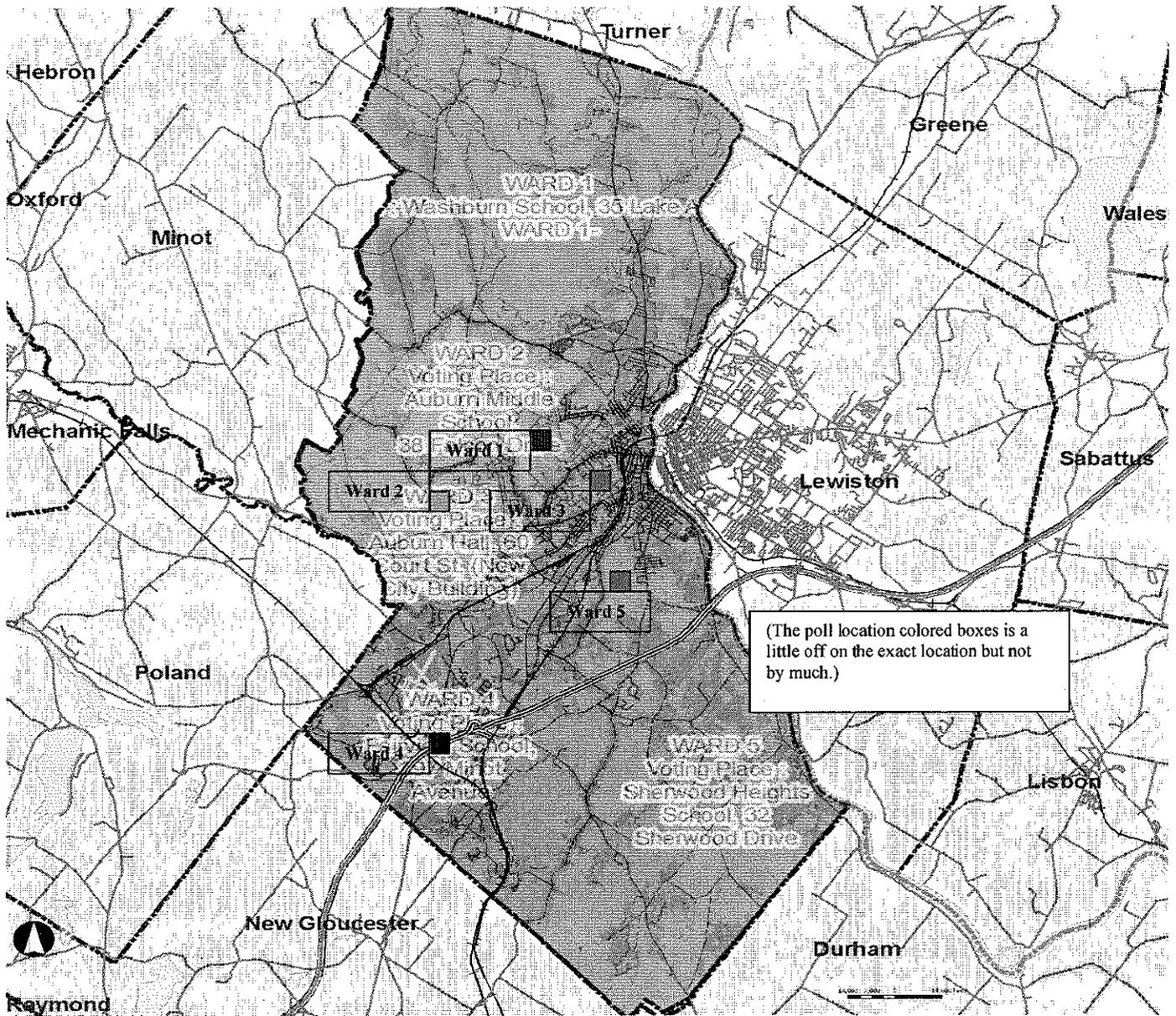
Councilors Robert Reed said he favored making all bus rides in the city free on Election Day. That idea was mentioned by Auburn City councilors at their meeting Monday. Councilors told Auburn City Manager Glenn Aho to look into waiving fares on the Citylink bus system on Nov. 4.

But councilors said offering free fares would have little impact on the polling place since only one of the three is on a city bus route. Voters headed to the Lewiston Memorial Armory, the Multi-Purpose Center or the Elks Club would still have to find a way to get there.

Mayor Larry Gilbert said the status quo was just fine. Volunteers from both political parties are happy to offer rides to voters that call them. Councilor Peters pointed out that more than 3,000 people have submitted absentee ballots so far. That's about 12 percent of the city's total registered voters.

"To go to this kind of expense when there are so many other means to get there is a needless expense," Gilbert said.

Map of Auburn's 5 Ward



Auburn's Wards are oddly shaped and stretch from the heart of the city to other town line boundaries. We usually have good to average voter turnout but it may be better if we provided this added incentive of providing the shuttle service. We won't know unless we are given this opportunity to try it.

Ward 1 Washburn School is on a bus route and the area covers around Lake Auburn. A majority of the voters have cars and those closer to the center of city can catch a bus or walk.

Ward 2 Auburn Middle School is not near any bus route. It is very hard for people at its further end to walk to the polls.

Ward 3 is at Auburn City's building and has most of the senior complexes. It's odd shape makes it difficult for a lot to get to the polls. Walking to the city building is also tough because of the traffic patterns and new construction.

Ward 4 Fairview School is by far the most inaccessible place for those with out a car. It goes from the heart of the city to out in the country. The ones who vote regularly are the ones with a car. A hundred or so vote absentee when the city clerk goes and vote them. The rest vote when they think of it by absentee but its not big numbers and the price of postage on the return envelope turns a few off.

Ward 5, Sherwood Heights School located in New Auburn was recently chosen to replace a poll from its downtown because of accessibility issues for those that are disabled. Its new location is a ways a way from where it was making it just about impossible to walk to. Most people in the lower part of downtown New Auburn area don't drive and depend on other modes of transportation to get around.



2008 EXPENDITURE GUIDELINES For Maine Clean Election Act Candidates

Candidates must spend Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

- Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:
 - Printing and mailing costs;
 - Political advertising expenses;
 - Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
 - Office supplies;
 - Campaign events (e.g., food, rent of tent or hall, etc.);
 - Campaign staff expenses;
 - Campaign travel expenses, such as fuel and tolls; and
 - An entry fee for an event organized by a party committee, charity, or community organization or an ad in an event publication, as long as the expenditure benefits the candidate's campaign;

- Candidates may not use MCEA funds for personal expenses. This means candidates may not borrow from or use MCEA funds for personal or other non-campaign expenses, even if temporarily and with the intention of repaying the funds. Personal expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:
 - Day-to-day household food items and supplies;
 - Vehicle and transportation expenses unrelated to the campaign;
 - Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
 - Clothing, including attire for political functions such as business suits or shoes.

- Maine Clean Election Act funds may not be spent to:
 - make independent expenditures supporting or opposing any candidate, ballot measure, or political committee;
 - assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
 - contribute to another candidate, a political committee, or a party committee, other than in exchange for goods and services;
 - pay a consultant, vendor, or campaign staff, other than in exchange for campaign goods or services;
 - make a thank-you gift (including a gift card) to a volunteer or supporter;
 - compensate the candidate for services provided by the candidate;
 - make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
 - promote political or social positions or causes other than the candidate's campaign;
 - pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission; or
 - assist the candidate in a recount of an election.

■ Guidelines on Selected Issues

- *Electronics and Other Personal Property.* Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cellular telephones) must be reported on Schedules B and E of the candidate reporting form. No later than 42 days after the general election, the goods must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund. Candidates are welcome to lease electronic and other equipment.
- *Food.* Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates may not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse.
- *Car Travel.* MCEA campaigns may reimburse the candidate or campaign workers for their car travel, as long as the person reimbursed has kept a travel log. For 2008, the campaign may make a travel reimbursement up to the number of miles traveled (as reported in the log) multiplied by \$0.42. Campaigns must keep the travel logs for two years, and provide them to the Commission if requested. Candidates and their spouses or domestic partners may spend any amount of their personal funds for campaign travel without seeking reimbursement. Other individuals may spend up to \$100 of their personal funds to pay for travel without making a contribution to the campaign.
- *Lodging.* Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.
- *Post-Election Notes and Parties.* Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates and \$500 for State Senate candidates. Candidates may also use personal funds for these purposes.
- *Campaign Training.* Candidates may use MCEA funds for tuition or registration costs to receive training on campaigning or policy issues.
- *Salary and Compensation.* Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. Documentation must include a description of the labor performed by the staff member or consultant, and an itemization of any goods or services purchased from other vendors including date, vendor, and amount.

■ Required Record-Keeping

The MCEA requires participating campaigns to keep two documents for every expenditure over \$50: (1) an invoice from the vendor listing the goods or services purchased, and (2) a canceled check or other acceptable proof of payment to the vendor. Please select a treasurer who will be responsible about keeping these records.

■ Auditing and Compliance

In 2008, the Commission staff will audit at least 20% of MCEA candidates and will review all receipts and expenditures disclosed by MCEA candidates in campaign finance reports. The Commission frequently requests additional information from candidates to verify that public funds were spent for campaign-related purposes. Candidates who misuse public funds may be required to repay some or all public funds received, may be liable for civil penalties, and may be referred to the State Attorney General for possible criminal prosecution.