



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

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

**STATE HOUSE STATION 101
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333**

April 4th, 1990

Minutes of the April 4, 1990 meeting of the Commission on Governmental Ethics and Election Practices held in Room 214 of the State Office Building, Augusta, Maine

Present: Chairman Arthur L. Lerman; Members Henry G. Beyer, Gregory G. Cyr, Joseph B. Ezhaya, Richard H. Pierce, Richard L. Trafton, and Paul E. Violette.

Absent: William Stokes, Commission Counsel

Chairman Lerman called the meeting to order at 1:30 p.m.

ROUTINE BUSINESS:

Travel and expenses vouchers were distributed.

The draft minutes of the February 23rd meeting were approved with the following amendments:

Mr. Pierce requested that the words "with the agreement of commission members and the Attorney General's representative," be inserted after the phrase "Mr. Pierce recommended that" in paragraph 2, page 3 of the minutes.

Mr. Ezhaya requested that the word "committee" be added after the word "Judiciary" in the last paragraph of page 4.

NEW BUSINESS:

At the invitation of the Commission, Mr. James Mundy spoke briefly in support of his candidacy for the position of Commission Chair. Another candidate, Mr. Paul Chaiken, declined an invitation to attend the meeting, having withdrawn his name from consideration. In the ensuing discussion, concern was expressed that a prior controversy surrounding Mr. Mundy's chairmanship with the Human Rights Commission might prove detrimental to Mr. Mundy, if elected Chair. Mr. Alvin Moss was present and asked to be recognized. Mr. Moss expressed his interest in serving as Chair and summarized, for the Commission's consideration, his experience and qualifications.

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Following a lengthy discussion, Mr. Ezhaya moved that Mr. Mundy be elected chair of the Commission and Mr. Trafton seconded the motion. Mr. Russ Christensen, Executive Director of Common Cause, was present and commented that his organization had recommended to leadership the names of several persons interested in serving on the Commission, with no positive results. He pointed out that there is a great deal of public interest in the functions of the Commission.

Vote was then taken on Mr. Ezhaya's motion. Mr. Cyr, Mr. Ezhaya, Mr. Violette, and Mr. Trafton voted in the affirmative; M. Pierce voted in the negative; Mr. Beyer abstained. MRSA Section 1002(1) (C) states that the "members -- shall, by an affirmative vote of at least 5 members, elect a (Chair)." Four affirmative votes having been cast, the motion failed to carry.

Members then planned ways to seek out qualified individuals who might be interested in serving as Chair. Mr. Violette recommended that members have an opportunity to review and discuss applicants prior to the next meeting and that the Commission limit to four or five the number of candidates invited to make presentations.

At this time, Mr. Mundy asked that his name be withdrawn from future consideration as chair.

Mr. Pierce moved that the Director make known to the League of Women Voters, Common Cause, Leadership, and other similar organizations, that the commission is accepting applications for the post. Mr. Trafton seconded the motion for discussion purposes. He then proposed the following: that candidates be required to submit a letter of interest and a resume; that the Director compile a list of all candidates and that the list be distributed to Commission members ten days prior to the next scheduled meeting; that, if necessary, members communicate by conference call to arrive at a list of finalists; and finally, that any candidate not acceptable to two members not be invited to make a presentation. Mr. Pierce concurred with Mr. Trafton's amendment.

Mr. Violette suggested a timetable for conducting the search and proposed that the Commission meet on May 8th, 1990 in open forum to hear presentations and to select a Chair. No objections being raised, the timetable was approved.

Mr. Beyer asked that candidates be required to include references with their resumes. Members concurred. The discussion then concluded, a vote was taken on Mr. Pierce's motion. The motion carried unanimously.

Mr. Lerman assured members that he would continue to fulfill the responsibilities of his office until a successor was chosen.

Ms. Canavan then requested that the Commission reconsider its action of February 23rd, 1990, whereby it found the report of the Smokeless Tobacco Council PAC 10 days late. She explained that the PAC's headquarters and depository are located out of state and therefore, according to 21-A MRSA Section 1052, the Committee is not required to register or file reports with the



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Commission, Mr. Trafton moved that the Commission reconsider its vote whereby a penalty was assessed against the Smokeless Tobacco Council PAC – on the grounds that the Commission does not have jurisdiction over PAC's which are organized outside the state. The motion was seconded and carried unanimously.

Next, the Commission determined the lateness of Representative Marjorie Kilkelly's semiannual campaign finance report - due January 16, 1990. A motion was made to find the report 11 days late (\$110.00). The motion was seconded and carried unanimously.

The Commission then considered a draft of procedures, prepared by the staff, for handling violations of the campaign finance laws. Discussion that followed focused on newly enacted legislation which states that "a campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements, is received by the commission on the due date."

Mr. Pierce left the meeting at 3:00 p.m.

Mr. Lerman suggested developing guidelines to deal with the various kinds of violations found in campaign finance reports. Mr. Cyr moved that the standing subcommittee, established to decide questions on conflicts of interest, meet and return with recommendations regarding what types of violations would – or would not -- constitute "substantial conformance." The motion was seconded by Mr. Trafton and carried unanimously.

OLD BUSINESS:

The Commission reviewed the Director's proposal for clarifying procedures for handling complaints alleging violations of the legislative ethics laws. Mr. Trafton suggested that each occurrence of the word "subject" be replaced with the word "respondent." A motion was made to submit the draft proposal and complaint form to Commission Counsel for review, and, barring any problems, to initiate procedures at the next meeting to include the proposal in the rules.

NEW BUSINESS: The Commission reviewed P.L. 1989, Ch. 734 which reinstates language inadvertently omitted in P.L. 1989, Ch. 561 (An Act Regarding Governmental Ethics).

Next, taken out of order, was a proposal submitted by the staff to exempt certain small items from the requirements of 21-A MRSA Section 1014 and 1055. After some discussion of the matter, members declined to accept the proposal, the rationale being that a relaxation of the rules might diminish candidate accountability.

The Commission then turned its attention to a query submitted by a candidate for state office: "Is an individual permitted to make a contribution of more than \$1,000 prior to the primary election if the individual designates \$1,000 for use in the primary election and the amount in excess of \$1,000 for use in the general election?" Discussion focused on the Federal Election Law which permits such transactions provided that the donor designates the election for which such funds may be used and the designated amounts do not exceed the contribution limitations prescribed



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for an election. Commission members ruled that Maine law expressly prohibits an individual from making contributions of more than \$1,000 to a candidate in any one election. Ms. Canavan noted that the law does not specify when the primary ends and the general election begins.

Mr. Trafton moved that the Director arrive at a first draft of proposed rules specifying that no individual may make contributions aggregating more than \$1,000 per campaign to a candidate. The last day of the campaign is the date of the election for that particular campaign. He further moved that the draft be submitted to Commission Counsel for review and brought back with comments to the next meeting. The motion was seconded by Mr. Violette and carried unanimously,

Ms. Canavan reported to members that the Commission's request to transfer funds from allotment reserve to capital equipment was rejected by both the Budget Office and the Appropriations Committee; hence, over \$22,000 in Commission funds have been earmarked for misappropriation.

Mr. Trafton moved that the correspondence regarding a complaint filed with the Commission be accepted and Placed on file. The motion was seconded and carried unanimously.

The meeting was adjourned at 3:45 p.m.