



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

May 8th, 1990

Minutes of the May 8th, 1990 meeting of the Commission on Governmental Ethics and Election Practices held in Room 109 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; Commission Counsel William Stokes.

The meeting was called to order at 1:40 p.m.; travel and expenses vouchers were distributed.

Mr. Cyr moved, and it was seconded, to accept the draft minutes of the April 4th meeting as submitted. The motion carried unanimously.

The first matter considered was the election of a Commission Chair. Mr. Lerman informed members that the search had drawn three qualified candidates: Messrs. Paul Chaiken, Paul McCann, and Alvin Moss. At the Chair's request, candidates made brief presentations and afterward, responded to questions posed by Commission members. After some discussion, a brief recess was called.

Following the recess, Mr. Russ Christensen, Director of Common Cause, spoke briefly in support of Mr. Moss's candidacy.

By consensus, written ballots were taken. The results were as follows:

-First ballot: Mr. McCann, three (3) votes; Mr. Chaiken, two (2) votes; Mr. Moss, one (1) vote.

Members then agreed to conduct a weighted ballot to arrive at a consensus; i.e., first preference: three points, second preference: two points; third preference: one point. The candidate with the least number of points would be eliminated, thus narrowing the field.

-Second ballot: Mr. Chaiken, fourteen (14) votes; Mr. McCann, thirteen (13) votes; Mr. Moss, nine (9) votes.

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Mr. Moss's name was then removed from the field.

-Third ballot: Mr. Chaiken, three (3) votes; Mr. McCann, three (3) votes.

- Fourth ballot: Mr. Chaiken, three (3) votes; Mr. McCann, three (3) votes.

- Fifth ballot - Mr. McCann, five (5) votes; Mr. Chaiken, one (1) vote.

Mr. Pierce thereupon moved the election of Mr. McCann as Commission Chair. The motion was seconded and carried unanimously.

Mr. Pierce then suggested that written expressions of thanks be sent to both Mr. Chaiken and Mr. Moss for their interest in the Commission. All agreed and staff was so directed.

Mr. Trafton moved to appoint Mr. Lerman chair pro tem, the Chair-elect having left the meeting prior to the election. The motion was seconded and carried unanimously.

Next, on behalf of Commission members, Mr. Cyr read a proclamation praising the outgoing Chair, Mr. Lerman, for his dedication, outstanding leadership, and service to the Commission.

Mr. Christensen was then recognized. He questioned the Commission's rationale in selecting a Chair "who believes in PAC contributions in the political process" and expressed concern at what he perceived to be party-line voting in the election process. Mr. Pierce pointed out that the results of the weighted vote reflected support for each candidate and that partisanship clearly was not a factor in the Commission's deliberations.

Next, the Commission considered the question of whether a candidate who had served in the Legislature during 1986-1987 could represent himself as an incumbent on campaign materials. The Director stated that Maine's campaign finance law is silent on the question, but that the Fair Campaign Practices Code, effective July 17th, 1990, discourages the misrepresentation or distortion of facts on campaign materials. After a brief discussion of the matter, the Commission ruled that use of a "re-elect" slogan -- while not a violation of campaign finance laws -- would be a distortion of fact and thus inappropriate.

At the request of the Chair, Mr. Stokes addressed a question submitted by a member of leadership regarding the application of contribution limitations to party committees. Mr. Stokes held that party committees are subject to the contribution limitations of 21-A MRSA Section 1015(2) (\$5,000 per election) because they fit the definition of "political committee" as set forth in the law. He added that some confusion exists concerning the application of the law because party committees (and other entities) can make unlimited expenditures on behalf of a candidate. Mr. Stokes went on to emphasize that unlimited independent expenditures are permitted only when not made in cooperation, consultation, or concert with the candidate.



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Next, the Commission determined the lateness of the following delinquent registrants:

Kristofer Anderson	Dana Hanley*	Clifton Pike*
Priscilla Bolduc	Earl Hanscom*	Ruth Ann Poland*
Mark Bryant*	George Kerr*	Laurier Raymond*
Rosemarie Butler	Susan March*	John Richards*
Albert Carey	Kevin McGuirk*	David Stewart*
Pamela Chase*	Phillip Merletti*	Robert Ullenbruch*
Paul Dominovich	Robert Miller	Ellen Walker*
Susan Dore	Bradley Moulton	Philip Warren
Stephen Filler*	John O'Dea*	Merton Waterman*
Glenith Gray	Alan Page	

The Commission deemed all registrations to be timely filed where received within 7 days of the postmarked date of the Commission notice, this in accordance with 21-A MRSA Section 1020(2). Mr. Trafton moved to grant amnesty for the remaining filers on the basis that some were not made aware of the newly enacted requirement in time to comply with it in a timely fashion. The motion was seconded and carried unanimously. The Commission emphasized for the record that the decision does not set precedent for future applications.

The Commission then reviewed a draft rule defining the start and ending of a campaign period for the purpose of imposing the contribution limitations set forth in 21-A MRSA Section 1015. Mr. Stokes stated no objection to the draft as submitted, but reminded members that the Administrative Procedures Act (APA) defines "rules" as being judicially enforceable. He questioned whether that was the Commission's intent regarding the draft rule in question. The response was affirmative.

Mr. Beyer suggested that the word "obligation" in Paragraph C of the rule be expanded to read "his/her financial obligations for the campaign."

The question was raised as to whether money collected after an election would be considered a gift where a candidate has met all financial obligations associated with his/her candidacy and has decided not to run for a subsequent election. The consensus was that such a contribution could be deemed a gift if the candidate did not seek reelection.

A motion was made and seconded to accept the draft rule with Mr. Beyer's amendment. The motion carried unanimously.

The Commission then reviewed P.L. 1989, Ch. 802: An Act to Discourage Negative Campaign Practices. The law requires the Commission to select two commission members, one from each major political party to serve, together with a third member chosen by those two Commission members or by the Chair if those persons cannot agree, on a subcommittee. The mandate of the subcommittee is to study, in consultation with the Attorney General's office, candidates' compliance with the Maine Code of Fair Campaign Practices . . . and the need for, cost of



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and legal issues involved with the establishment of a complaint procedure both Mr. Ezhaya and Mr. Beyer indicated their willingness to serve on the subcommittee. It was agreed that Mr. Pierce would represent Mr. Beyer when the latter was absent. Finally, it was suggested that the Chair-elect serve as the third member of the subcommittee.

*Registration filed within 7 days of postmarked date of Commission letter/form. The Commission then considered a question raised by the Director as to whether the word "consulting" is sufficient to describe an expenditure under the law. Commission members deemed it adequate, but suggested that staff research what other states require for disclosure in this area.

Next, the Commission reviewed a draft of the 48-hour reporting form for late contributions. Mr. Trafton moved, and it was seconded, to accept the draft form as submitted.

The meeting was adjourned at 3:55 p.m.

Respectfully submitted,

Marilyn Canavan, Director