

# IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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**BOARD MEMBERS:**  
James Albert, Chair  
Geraldine Leinen, Vice Chair  
Bernard McKinley  
Phyllis Peters  
Janet Carl  
Gerald Sullivan

## IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD MINUTES FEBRUARY 5, 2004 OPEN SESSION

HELD AT: Historical Building, Classroom A, Des Moines, Iowa

BOARD MEMBERS PRESENT: Jim Albert, Phyllis Peters, Janet Carl, Jerry Sullivan, and Jerri Leinen by phone

STAFF PRESENT: W. Charles Smithson, Sandy Reier

- I. CALL TO ORDER - The meeting was called to order by Chair Albert at 12:32 p.m.
- II. APPROVAL OF MINUTES FROM DECEMBER 3, 2003 AND JANUARY 13, 2004 MEETINGS – It was moved by Peters and seconded by Leinen that the minutes of the December 3, 2003 and January 13, 2004 meetings be approved as written. Motion carried unanimously.

The following legislative leaders were invited and appeared before the Board for the purpose of building strong relations and opening the lines of communication. The legislators provided feedback and comments on Board activities and received an update of things the Board has done. It was reported by Chair Albert that in the past year the Board has emphasized education over punishment and dramatically revised rules and brochures to make them more understandable and user-friendly. New advisory opinions have been issued, including one on yard signs on the February 5, 2004 agenda.

Senate Minority Leader Mike Gronstal appeared at 12:35 p.m. Senator Gronstal thanked the board for making the campaign disclosure process understandable and not a barrier to run for office. He commended the move to electronic filing, dedication of the Board, the friendly and helpful staff and Board progress. He has heard no complaints about the Board in the last two years. He feels mandatory electronic filing would be an unfair burden for entry-level candidates who raise and spend a small amount of money and he would hate to see it mandated. He suggested possibly mandatory filing after receiving a certain amount of money would be better. Senator Gronstal stated there has not been a hue and cry from constituents about sunshine but feels a searchable database would be a great tool for ordinary citizen groups and the public.

Assistant Majority Leader Mark Ziemann appeared at 1:00 p.m. Senator Ziemann thanked the Board for serving. He also thanked the Board for getting electronic filing working. Most new people are computer literate now. He suggested new candidates be steered in that direction. Clarity of rules is very important. Senator Ziemann feels ethics will become a bigger job. He believes the tenor of elections is a concern; it has deteriorated. He believes elections should be under control of the Board, not in a partisan office because voting and campaign finance are tied together. He stated the legislature would be looking to the Board for sunshine recommendations. The Senate will not be looking at the mandatory electronic filing issue. It would probably not come up in the Senate if passed in the House where it was introduced. When it is considered he believes a threshold for mandatory electronic filing would be reasonable.

Senate President Jeff Lamberti – Senator Lamberti appeared at 1:45 p.m. He stated he believes Charlie does a good job of interacting with legislators and committees and both parties feel very comfortable with the information they are getting. He understands funding is always a problem and will again be a problem. Senator Lamberti stated that yard sign violations are not intentional so clarity in an advisory opinion is important. He believes budget realities will not allow mandated electronic filing. When asked if he thought legislative ethics issues may be moved to the Board, he stated that while it may be possible, there are no plans to do so.

House Minority Leader Pat Murphy – Representative Murphy appeared at 2:10 p.m. He stated that under previous leadership there was too much focus on small things rather than big picture things and that has changed. He believes the direction now of the Board is the right direction. Advice before a violation is good. Representative Murphy stated his treasurer, who is computer literate, does not want to file via computer because she does not feel comfortable with it and he does not think it should be mandatory. He feels it will be difficult for committees to get a treasurer if electronic filing is mandated because people may be intimidated by a computer. As a party leader he feels it would be easier to look up information on electronically filed reports but here campaigns are done by volunteers rather than paid professionals as in Wisconsin and Illinois. He feels mandatory electronic filing will discourage people from running when it will be hard to find a volunteer treasurer to serve. Regarding electronic filing, he does feel the larger statewide races would be different from legislative rural areas and may be looked at differently.

III. ELECTION OF OFFICERS – It was moved by Sullivan and seconded by Peters that Albert be reelected chair and Leinen be reelected vice chair. Motion carried unanimously.

Leinen suggested communication among the Board members be increased. Peters suggested discussions of things other than agenda items, for example things being reported in the paper and the sharing of articles by Board members.

IV. ELECTRONIC FILING UPDATE – It was reported that with the exception of two tables, everything is finished on the electronic filing project. The director reported he wants to make sure everything is tested. 31% of state candidates and 36% of PACs used electronic filing in January. He stated ongoing updates will be needed. Funding for enhancements to the public access part will come from IowaAccess. There will also always be a need to work on fixes to enter information quicker.

The meeting recessed at 2:40 and reconvened at 2:50 p.m.

V. PROPOSED ADVISORY OPINION

A. Permitted and Prohibited Placement of Campaign Yard Signs – It was moved by Sullivan and seconded by Peters that the advisory opinion clarifying permitted and prohibited placement of campaign yard signs be approved. Motion carried unanimously.

VI. REQUESTS FOR ADJUSTING ENTRY

It was moved by Peters and seconded by Leinen that the following requests for adjusting entry be approved. Motion carried unanimously.

- A. Kathryn Russell, Russell for Representative in the amount of \$163.75.
- B. Iowa Democratic Party in the amount of \$10,534.65.

VII. ADJOURNMENT TO EXECUTIVE SESSION – At 3:10 p.m. it was moved by Sullivan and seconded by Peters that in accordance with the provisions of Iowa Code section 21.5, subsection 1, paragraphs (c), (f) and (h), the Board go into executive session. Albert, Leinen, Peters, Carl and Sullivan voted yes in roll call vote. Motion passed unanimously.

An agenda item at the next meeting will be discussion of whether executive session items should be in open session.

The meeting returned to Open Session at 3:40 p.m.

VIII. ACTION FROM EXECUTIVE SESSION – It was moved by Peters and seconded by Leinen that the written record of executive session action be made a part of the open record. Motion carried unanimously.

The following executive session action was taken.

Larry Framke – It was moved by Sullivan and seconded by Leinen that the file be closed with a finding of no probable cause to believe that a violation occurred and that a letter to the editor explaining the Board's

determination be sent. Motion carried unanimously. The investigation was conducted to determine if public facilities were used for a political purpose.

Use of Fort Madison School District Van – The investigation determined no signs were placed before or during the election using the school district van. It was moved by Carl and seconded by Sullivan that the matter be closed with a finding of no probable cause to believe that a violation occurred. Motion carried unanimously.

Taft Middle School – It was moved by Sullivan and seconded by Peters that this matter be closed due to lack of evidence to determine who authorized or distributed brochures in teacher mailboxes at the school, that a letter to the editor explaining the Board's action be sent and that an advisory opinion be written on what schools can and cannot do. Motion carried unanimously.

American Realty & Management, Inc. – It was moved by Leinen and seconded by Peters that the matter be closed with a finding of no probable cause to believe a violation occurred. Motion carried unanimously. It was determined that the campaign committee paid rent for office space and telephones at American Realty & Management, Inc.

Grimes City State Bank – It was moved by Carl and seconded by Peters that a Letter of Admonishment be issued to candidates Tom Shatava, Tami Evans and Ron Rosenberg and to the City State Bank in Grimes for the use of corporate property for a political purpose. Motion carried unanimously.

Tom Neenan – An investigation was made to determine if a mailing by Tom Neenan was done using public funds and if there was a proper attribution statement on the mailing. It was moved by Leinen and seconded by Carl that the investigation concerning the alleged misuse of public funds for a political purpose be closed with a finding of no probable cause to believe that a violation occurred and that a correction advertisement in the local newspaper be required to resolve the attribution statement violation. Motion carried unanimously.

Citizens for Responsible Government (Story) – An investigation was directed to determine if this organization should have been registered and whether a proper attribution statement was used. It was moved by Peters and seconded by Carl that the portion of the investigation concerning whether the committee registered in a timely fashion be closed with a finding of no probable cause to believe that a violation occurred and that a correction advertisement to resolve the attribution statement issue be required. Motion carried unanimously.

The Committee to Elect Joni K. Ernst County Auditor and Jeff Smith Articles (Montgomery) – It was moved by Peters and seconded by Sullivan that the Board decline to investigate an allegation that candidates Joni Ernst and Jeff Smith did not register a committee and that Counsel submit a letter to the editor explaining the Board's determination in this matter. Motion carried unanimously. It was determined that the newspaper articles were not paid political advertisements and would therefore have no bearing on whether the threshold for reporting was crossed.

Bruce Slagle – It was moved by Leinen and seconded by Carl that a Letter of Reprimand be issued to City Manager Bruce Slagle for use of public resources for a political purpose by calling a meeting of city workers and urging them to vote against a mayoral candidate. Motion carried unanimously.

Postville City Council Election – It was moved by Carl and seconded by Leinen that the alleged election violations of Iowa Code chapter 39A be referred to the County Attorney, Secretary of State's office and the Ombudsman's office since we have no jurisdiction, and that the complainant be notified. Motion carried unanimously.

It was suggested by Sullivan that the Board members be provided with information showing who has jurisdiction of what campaign, election and polling place issues and where the Board fits into the picture.

Mike McPherson – It was moved by Peters and seconded by Carl that the Board decline to investigate whether leftover campaign funds donated to a church where the candidate is a pastor were actually used to pay the candidate's daughter to do some work for the church since a previous investigation had already looked at church records. Motion carried unanimously.

Friends of Rec Plex (Story) – It was moved by Carl and seconded by Leinen that Counsel be directed to investigate whether all expenditures were reported and if expenditures were reported timely. Motion carried unanimously.

Request for Subpoena – David Whittaker Investigation – It was moved by Carl and seconded by Leinen that the Board authorize the issuance of a subpoena to the Des Moines Area Community College for purposes of obtaining records relating to employment and termination in the conflict of interest investigation of David Whittaker. Motion carried unanimously.

#### IX. BOARD RULES

A. Proposed Rules for Adoption – It was moved by Sullivan and seconded by Leinen that the following proposed rules be adopted and that the appropriate paperwork be filed. Motion carried unanimously.

1. ARC 3048B – Voluntary committees
2. ARC 3046B – Corporate owned media may host a debate as long as certain procedural requirements are met

Sullivan proposed amending the Board Code of Ethics in 351 IAC 1.6 to add that Board members can attend party caucuses and participate in county and state conventions.

B. Proposed Rules for Notice of Intended Action – It was moved by Carl and seconded by Peters that the following proposed rules be approved for Notice of Intended Action. Motion carried unanimously.

1. To clarify rules concerning bonuses and gifts to campaign workers and payments to family members as campaign workers.
2. To consolidate two current rules concerning the transfer of assets between candidate committees.
3. To clarify that a permanent organization that makes a loan or is owed debt by a candidate or committee is not required to register as a PAC, that a candidate or candidate's committee may owe a debt to a corporation or insurance company, and that a financial institution may make a loan to a candidate.
4. To clarify that an executive branch lobbyist client report must be filed even if no compensation is paid to a lobbyist.

#### X. VIOLATIONS

A. Late Filed DR-1 (Statements of Organization, Iowa Code section 68A.201) – It was moved by Sullivan and seconded by Peters that a Letter of Admonishment be sent to the following. Motion carried unanimously.

Committee to Elect Pam Weber (Marshall)  
Citizens for Cunningham (Scott)  
Gay Wilson for City Council (Polk)  
Committee to Elect Joel Langrehr (Scott)  
Pat Taylor for Senate  
Committee to Elect Lyle Wiggins (Scott)

B. Attribution Statement Violations (Iowa Code section 68A.405) – It was moved by Leinen and seconded by Carl that the correction advertisement be received and that the committee be reminded to include payment of the correction ad by the Republican Party of Iowa as an in-kind contribution on their disclosure report. Motion carried unanimously.

Jeff Kaufmann for State Representative

XI. REQUESTS FOR WAIVERS OF CIVIL PENALTIES – The following requests for waivers were continued to the next meeting.

A. Campaign Committees (Rule 351 IAC 10.3)

Statewide Committees

1. Jack Young for House Committee
2. Independent Insurance Agents of Iowa PAC
3. UFCW Local 230 ABC
4. Friends for Zamora

County/Local Committees

1. Chickasaw County Republican Central Committee
2. Emmet County Republican Central Committee
3. Pottawattamie County Democratic Central Committee
4. Local Opportunity Committee (Appanoose)
5. Ringgold County Republican Central Committee
6. Tjossem for Council (Winneshek)
7. FBG Service Corporation
8. Story County Republican Central Committee
9. Wieland for Council (Black Hawk)
10. Cole for Council (Black Hawk)
11. Clinton County Vision Iowa Committee
12. Ken Reece for Mayor (Hardin)
13. Vision South O'Brien (O'Brien)
14. Hapgood for Mayor (Linn)

Out of State PACs

1. Fareway Stores, Inc. PAC
2. International Union of Painters & Allied Trades PAC
3. Laborers' 309 PAC
4. Laborers' 309 PAC
5. General Mills PAC
6. Monsanto Citizenship Fund
7. Great South Bay PAC

A. PFD (Rule IAC 7.6)

1. Patrick J. Palmersheim

XII. FOIA REQUEST

- A. Barbara Schwarz – Received for information; no action was taken.

XIII. ITEMS OF BOARD INTEREST NOT NEEDING ACTION

- A. DAS-SAE Pre-Audit Expenditure Review Report – Received for information; no action was taken.

- B. Income Tax Checkoff Report – Received for information; no action was taken.

At 3:42 p.m. it was moved by Sullivan and seconded by Leinen that the meeting be adjourned. Motion carried unanimously.

Respectfully submitted,



Sandra Reier  
Secretary