

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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BOARD MEMBERS:

James Albert, Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

MINUTES

OCTOBER 21, 2004

OPEN SESSION

HELD AT: Jessie Parker Building, 510 East 12th, Des Moines, Iowa

BOARD MEMBERS PRESENT: Jim Albert, Jerry Sullivan, Janet Carl, John Walsh, Betsy Roe, Patricia Harper

STAFF PRESENT: W. Charles Smithson, Sharon Wright, Sandy Reier

1. CALL TO ORDER - The meeting was called to order by Chair Albert at 12:03 p.m.
2. ELECTION OF VICE CHAIR/PROPOSED NEW DATE OF ELECTIONS – Sullivan nominated Carl for Vice Chair. There were no other nominations. Carl was elected vice chair by unanimous ballot.

It was moved by Carl and seconded by Sullivan to move the election of officers to the first meeting after April 30 of each year. Motion carried unanimously.

3. APPROVAL OF MINUTES FROM JUNE 23 & AUGUST 25, 2004 MEETINGS – It was moved by Carl and seconded by Walsh that the minutes of the June 23, 2004 and August 25, 2004 meetings be approved as written. Motion carried.

4. ADJOURNMENT TO EXECUTIVE SESSION – At 12:10 p.m. it was moved by Walsh and seconded by Sullivan that in accordance with the provisions of Iowa Code section 21.5, the Board go into executive session to discuss complaints, investigations, and personnel matters. Albert, Carl, Sullivan, Walsh, Roe, and Harper voted yes in roll call vote. Motion passed unanimously.

The meeting returned to Open Session at 2:03 p.m. and recessed. The meeting reconvened at 2:20 p.m.

5. ACTION FROM EXECUTIVE SESSION – It was moved by Walsh and seconded by Harper 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.

David Whittaker – It was moved by Walsh and seconded by Harper that a statement of charges be filed and the matter set for hearing. Motion carried unanimously. Sullivan was appointed presiding officer.

Indian Hills Community College – It was moved by Roe and seconded by Sullivan that the Kelly Conrad investigation be closed with a finding of no probable cause to believe that a violation occurred and that a letter of admonishment be issued to Lorenzo Watkins to exercise care in the future as to the use of school resources for an outside employment or activity. Motion carried unanimously.

Jerry Dunbar (Washington) – It was moved by Sullivan and seconded by Carl that the investigation concerning the use of public resources for a political purpose be closed with a finding of no probable cause to believe that a violation occurred. Motion carried unanimously.

North Iowa Bank Festival in Mason City – Investigation determined current officeholders are permitted to participate in the parade but no campaigning is allowed. It was moved by Sullivan and seconded by Harper that the investigation be closed with a finding of no probable cause to believe that a violation occurred.

Thurman Gaskill – It was moved by Sullivan and seconded by Roe that the investigation concerning proper disclosure of campaign transactions related to a fundraiser and an alleged attribution statement violation be closed with a finding of no probable cause to believe that a violation occurred. Motion carried unanimously. It was determined that the event was actually a constituent forum.

K. Kae Meyer (Plymouth) – It was moved by Carl and seconded by Sullivan that the investigation concerning the use of public resources for a political purpose be closed with a finding of no probable cause to believe that a violation of Board statute or rule occurred. Motion carried unanimously.

Concerned Citizens of Indianola (Warren) – It was moved by Walsh and seconded by Harper that the investigation to determine whether an unregistered organization crossed the threshold for reporting and included an accurate attribution statement on a mailing be closed with the caveat that it may be reopened within three years of the date of the mailing if additional information or evidence to determine who was involved with the group is discovered. Motion carried unanimously.

Joni Ernst (Montgomery) – It was moved by Harper and seconded by Walsh that the investigation be closed with no action. Motion carried unanimously. It was determined that a debt should have been reported and amended reports have been filed.

Jeff Smith (Montgomery) – It was moved by Roe and seconded by Walsh that the investigation be closed with a finding of no probable cause to believe that a violation occurred. Motion carried unanimously. It was determined that expenditures were correctly reported.

Paul Dorr/School Bond Committees – It was moved by Sullivan and seconded by Roe that the investigation be closed with a finding of no probable cause to believe that a violation occurred. Motion carried unanimously. It was determined that no one in Story County hired Mr. Dorr as a campaign consultant and no campaign activity exceeded \$750. The CARE Committee in Tama County did register and timely file reports.

City of Wilton – It was moved by Walsh and seconded by Roe to further investigate who prepared and authorized an express advocacy brochure mailed with the city utility bills. Motion carried unanimously.

Worth County Development Authority – It was moved by Sullivan and seconded by Harper that a civil penalty assessment order be sent lobbyist Kim Miller for failing to timely file a first quarter executive branch lobbyist report and an admonishment be issued for failing to register prior to lobbying. Motion carried unanimously.

Alden School District Brochures – It was moved by Roe and seconded by Walsh that the investigation be closed with a finding of no probable cause to believe that school resources were used in violation of the law. Motion carried unanimously.

Gloria Carr – It was moved by Sullivan and seconded by Carl that the investigation be closed with a finding of no probable cause to believe that a violation occurred concerning alleged corporate contributions and that a letter of caution be issued concerning the application of the campaign law in reporting in-kind contributions. Motion carried unanimously.

Committee for Kids (Pottawattamie) – It was moved by Sullivan and seconded by Carl to investigate whether all transactions were reported on disclosure reports. Motion carried unanimously.

Agriprocessors/Gift to City Council Members – It was moved by Roe and seconded by Sullivan that an alleged ethics law violation by local governmental personnel not under the Board's jurisdiction be referred to the Allamakee County Attorney. Motion carried unanimously.

Agriprocessors/Postville City Council – It was moved by Roe and seconded by Walsh that the Board decline to investigate an allegation not under the Board's jurisdiction and that it be referred to the Allamakee County Attorney. Motion carried unanimously.

Johnston Parents for Excellence – It was moved by Roe and seconded by Carl that Counsel be directed to investigate whether the organization should have registered a committee and filed reports and that the organization be directed to place a correction advertisement reflecting an accurate attribution statement. Motion carried unanimously.

South Tama County Community School District – It was moved by Sullivan and seconded by Harper to investigate the alleged use of school resources for a political purpose. Motion carried unanimously.

Geraldine Leinen – It was moved by Sullivan that Senator Sievers be directed to return the \$100 contribution from former Board member Geraldine Leinen. This motion died for lack of a second.

It was moved by Roe and seconded by Walsh that the committee be directed to return the \$100 contribution and that a Letter of Reprimand be issued to Geraldine Leinen for making a contribution to a candidate's committee while a member of the Iowa Ethics and Campaign Disclosure Board. Motion carried unanimously.

Sioux City School District Leasing Stadium – It was moved by Sullivan and seconded by Walsh that the Board decline to investigate and refer to the Woodbury County Attorney a conflict of interest allegation since the Board does not have the authority to investigate complaints involving the ethics of local governmental personnel. Motion carried unanimously.

Paul Pate (Linn) – It was moved by Sullivan and seconded by Walsh that the Board decline to investigate an alleged gift law violation and that the matter be referred to the Linn County Attorney. Motion carried unanimously.

Mary Krier (Keokuk) – It was moved by Walsh and seconded by Carl that the alleged use of governmental resources for a political purpose be investigated. Motion carried unanimously.

Paul DeGeest for Sheriff (Mahaska) – It was moved by Sullivan and seconded by Harper that the Board decline to investigate the alleged late filing of the July 19, 2004 report. Motion carried unanimously. It was determined the report was timely filed.

Spencer School District Election and Randy Van Dyke – It was moved by Carl and seconded by Harper that the Board investigate whether Randy Van Dyke exceeded the \$750 threshold for reporting, investigate whether resources of the Clay Regional Water facility were used for a political purpose, investigate whether resources of the Spencer School District were used by for a political purpose and decline to investigate an email sent by Kathy Elliott since it did not advocate the nomination, election or defeat of a candidate. Motion carried unanimously.

Jefferson County School District Brochure – It was moved by Walsh and seconded by Roe to review the Web site shown on the brochure and, if it includes express advocacy, investigate. Motion carried unanimously.

DeKevin Thornton Email/Marion School District – It was moved by Roe and seconded by Walsh that the Board decline to investigate the use of public resources for a political purpose since no violation occurred and that an advisory opinion be drafted to clarify the use of email as it relates to the use of public resources for a political purpose. Motion carried unanimously.

Tama County Auditor's Office – It was moved by Carl and seconded by Harper to investigate the alleged use of public resources for a political purpose. Motion carried unanimously.

Schmitt Telecom Partners – It was moved by Walsh and seconded by Carl to investigate an advertisement for a business that allegedly was a campaign advertisement. Motion carried unanimously.

Palo Alto County Sheriff's Race – It was moved by Roe and seconded by Walsh to investigate the alleged use of public resources for a political purpose. Motion carried unanimously.

Johnson County Democrats/One Twenty Six Restaurant – It was moved by Carl and seconded by Walsh to decline to investigate an alleged corporate contribution since the One Twenty Six Restaurant is not incorporated. Motion carried unanimously.

Riverside Fire Department – It was moved by Roe and seconded by Walsh to investigate the alleged use of public resources for a political purpose. Motion carried unanimously.

Washington County Citizens for Good Jobs – It was moved by Walsh and seconded by Roe to investigate whether the committee filed true and accurate campaign disclosure report. Motion carried unanimously.

Wapello County Sheriff's Office – It was moved by Walsh and seconded by Harper to investigate the alleged use of public resources for a political purpose and to refer allegations of potential violations of criminal statutes to the Wapello County Attorney's Office. Motion carried unanimously.

Karen Schlicher – It was moved by Walsh and seconded by Carl to investigate the allegation of a sign on corporate property, direct the placement of a correction advertisement for an attribution statement violation and direct that a letter be sent to Gene Smith notifying him of the proper application of the law. Motion carried unanimously.

Clarke County Issues – It was moved by Walsh and seconded by Sullivan to investigate the alleged use of public resources for a political purpose and to refer the election law issues to the Clarke County Attorney's Office. Motion carried unanimously.

Judy Babcock – It was moved by Walsh and seconded by Roe to decline to investigate the alleged use of county resources for a political purpose until further information is received. Motion carried unanimously.

Committee to Elect Brian Gilbert Sheriff Fundraiser – It was moved by Roe and seconded by Walsh to investigate the alleged use of city resources for a political purpose. Motion carried unanimously.

Phil Yerington – It was moved by Walsh and seconded by Harper to investigate the alleged use of public resources for a political purpose. Motion carried unanimously.

America Coming Together/Absentee Ballot Calls – It was moved by Walsh and seconded by Harper to decline to investigate a complaint concerning absentee ballots since it does not raise an issue under the Board's jurisdiction. Motion carried unanimously.

Businessman to Support NCC's Levy – It was moved by Roe and seconded by Walsh to investigate if there has been true and accurate reporting. Motion carried unanimously.

AHST Bond Election – It was moved by Walsh and seconded by Harper to investigate the alleged use of school resources for a political purpose. Motion carried unanimously.

Washington County Gambling Brochure – It was moved by Sullivan and seconded by Walsh to investigate an attribution statement violation since the document contains express advocacy. Sullivan, Walsh and Carl voted yes. Harper, Roe and Albert voted no. Motion did not pass.

It was moved by Roe and seconded by Harper that this agenda item be continued to the next meeting and that the 8th Circuit opinion concerning express advocacy be distributed. Motion carried unanimously.

Secretary of State Absentee Ballot Mailing – It was moved by Walsh and seconded by Harper to decline to investigate this mailing since it did not contain express advocacy. Motion carried unanimously.

Carol Copeland (Des Moines County Auditor) – It was moved by Roe and seconded by Carl to investigate whether public resources were used for a political purpose. Motion carried unanimously.

Iowa 80 Truckstop – It was moved by Walsh and seconded by Roe to investigate an alleged gift law violation. Motion carried unanimously.

Steven Gifford Email – It was moved by Walsh and seconded by Harper to investigate the alleged use of public resources for a political purpose. Motion carried unanimously.

Brian Gilbert & Kevin Fredericks – It was moved by Roe and seconded by Harper that the part of the complaint concerning the allegation as to the use of public resources for a political purposes is determined to be legally sufficient and investigated and that the allegation of harassment is determined to be not legally sufficient and the Board declines to investigate as that issue is beyond the Board's jurisdiction. Motion carried unanimously.

Brickner Campaign for Sheriff – It was moved by Walsh and seconded by Carl to investigate the allegations concerning the use of public resources for a political purpose and decline to investigate the theft, vandalism, and harassment issues with a referral to the Dallas Center Police Department. Motion carried unanimously.

North Elementary School in Hampton – It was moved by Walsh and seconded by Harper to investigate the alleged use of school resources for a political purpose. Motion carried unanimously.

City of Waukee Mailing/Survey – It was moved by Roe and seconded by Walsh to decline to investigate the alleged use of public resources for a political purpose since the survey did not contain express advocacy. Motion carried unanimously.

Dallas County Hospital – It was moved by Walsh and seconded by Roe to investigate the alleged use of public resources for a political purpose. Motion carried unanimously.

Nordstrom Default Decision – The Default Decision and Order was received for information. The Order includes a civil penalty in the amount of \$400, reimbursement of costs in the amount of \$100, a Letter of Reprimand and administrative closure of the committee.

Future Board meeting dates were discussed. It was agreed that meetings will be held the third Thursday of February, May and October and the first Thursday of December, with additional meetings scheduled as needed.

At 3:00 p.m., it was moved by Walsh and seconded by Sullivan that in accordance with the provisions of Iowa Code section 21.5, the Board go into executive session to discuss personnel matters. Albert, Carl, Sullivan, Walsh, Roe and Harper voted yes in roll call vote. Motion carried unanimously.

The meeting returned to open session at 3:18 p.m.

It was moved by Walsh and seconded by Sullivan that Executive Director Charlie Smithson's salary be increased to \$80,000 a year and Sandy Reier's salary be increased to \$47,000 a year effective November 1, 2004. Motion carried unanimously.

6. ADMINISTRATIVE ACTION

A. Hispanics – It was moved by Sullivan and seconded by Roe that the order for a contested case proceeding be rescinded, that the committee's failure to file a timely report be resolved through the civil penalty assessment process and that a letter of admonishment to exercise care in the future be issued. Motion carried unanimously.

B. Patrick Hendricks – It was moved by Walsh and seconded by Carl that Patrick Hendricks' request for a contested case for the Board's denial for a request for waiver be accepted and the matter set for hearing. Motion carried unanimously. Albert will be presiding officer.

C. Union County Republican Central Committee – It was moved by Walsh and seconded by Sullivan the order for a contested case proceeding be rescinded, that the \$100 civil penalty be waived and

that the former chair of the committee be issued a letter of reprimand for failing to timely file the report. Motion carried unanimously.

D. Steven Huff – It was moved by Carl and seconded by Harper that a letter of reprimand be issued for failing to file the July 19, 2004 report, that a civil penalty assessment order be issued, that the committee be administratively dissolved and that he be admonished that if he runs in the future, full compliance with the law will be expected. Motion carried unanimously.

7. PROPOSED ADVISORY OPINION – It was moved by Sullivan and seconded by Harper that advisory opinions A thru F be approved with the addition of a footnote in Opinion A that refers candidates to the Federal Election Commission and the application of federal law when a federal candidate wants to transfer funds to the candidate's state committee. Motion carried unanimously.

- A. Prohibition on Contributions from Other Candidates/Opinion 2000-26 Rescinded
- B. Signs on Personal Vehicles/Opinions 2000-27, 2000-28 & 2000-32 Rescinded
- C. Prohibition on Renting Corporate Property to Place Sign/Opinion 2001-02 Modified
- D. County Commissioner of Elections Involved with Campaigns
- E. Session Reception Reporting Forms
- F. Acceptance of Academic Position after Leaving State Government

8. POLICY DECISIONS FOR THE BOARD TO MAKE

A. Government Oversight Committee Referral – It was moved by Roe and seconded by Sullivan that Counsel be directed to contact Iowa Workforce Development concerning outside employment agreements, that he get more information about the specific situation before the Government Oversight Committee, that he begin working on ethics rules relating to conflicts of interest and that he review current language in Chapter 68B and report back to the Board if a legislative proposal is necessary to address concerns of the Oversight Committee. Motion carried unanimously.

B. Party Building Funds – It was moved by Carl and seconded by Walsh that proposed rules be drafted that set out the procedure for the state parties to disclose for public review contributors to their building funds. Motion carried unanimously.

9. BOARD RULES

A. Proposed Rules for Adoption – It was moved by Roe and seconded by Harper that the following four proposed rules be adopted. Motion carried unanimously.

- 1. Rule 1.7 – Reflects the procedural requirements for a member of the Board to sell goods or services to a person subject to the regulatory authority of the Board
- 2. Rules 4.11(2), 4.27(5) – Renumbers cites to reflect recent renumbering of other rules
- 3. Rule 8.7 – Reflects information currently required on executive branch lobbyist registrations and encompasses the upcoming enhanced lobbyist electronic filing system that allows registrations to be filed via the Internet.
- 4. Rule 8.20 – Reflects retention and availability of lobbying reports and statements.

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

- 1. Waiver Request Procedure
- 2. Committee ID Numbers
- 3. Out of State PACs Filing VSRs
- 4. Whistleblower Protection for Employees
- 5. Prohibits Loans from Exec. Branch Lobbyists Except in Ordinary Course of Business

10. HEARINGS – It was moved by Walsh and seconded by Sullivan that hearings be set for the following. Motion carried unanimously.

- A. Davenport Democratic Party – Sullivan will be presiding officer
- B. Henry County Republican Women – Sullivan will be presiding officer

- C. Cherokee County Republican Central Committee – Albert will be presiding officer
- E. Robert Weltzin – Sullivan will be presiding officer
- F. James Deemer – Albert will be presiding officer
- G. Concerned Citizens for Better Education (Buchanan) – Sullivan will be presiding officer
- H. Carolyn Sparks – Albert will be presiding officer

D. Taylor County Republican Central Committee – This committee did come into compliance and no hearing was set.

11. REQUESTS FOR WAIVER OF CIVIL PENALTIES

- A. Campaign Committees (Rule 351 IAC 10.3)
Statewide Committees

Harrison County Republican Women – It was moved by Sullivan that the civil penalty assessed for a late-filed report be waived. The motion died for lack of a second.

It was moved by Harper and seconded by Roe to reduce the \$50 civil penalty to \$25. Harper, Roe, Carl, Walsh and Albert voted yes. Sullivan voted no. Motion carried.

Homebuilders Association PAC – It was moved by Sullivan and seconded by Walsh that the civil penalty assessed for a late-filed July 19, 2004 report be waived. Motion carried unanimously.

It was moved by Roe and seconded by Harper that the following actions be taken. Motion carried unanimously.

Behn for Senate – Reduce to \$50.

Committee to Elect Nathan Reichert – Waive.

Sextro for Senate – Uphold.

Committee to Elect Art Staed – Waive and admonish to exercise care in the future.

Citizen Whip – Waive.

Iowa County Republican Women – Uphold.

MidAmerican Energy Company Executive PAC – Waive.

Republican Women of Black Hawk County – Waive.

RiverPAC – Waive and admonish for failing to file amended Statement of Organization naming a new chair.

Jenkins for House Campaign – Reduce to \$50.

County/Local Committees

Cass County Democratic Central Committee – It was moved by Walsh and seconded by Roe that the civil penalty be upheld. Motion carried unanimously.

O'Brien County Democratic Central Committee – It was moved by Walsh and seconded by Harper that the civil penalty assessed for a late-filed report be reduced to \$25. Motion carried unanimously.

Ringgold County Republican Central Committee – It was moved by Sullivan and seconded by Roe that the civil penalty be reduced to \$50. Motion carried unanimously.

Harper left at 3:45 p.m.

It was moved by Sullivan and seconded by Walsh that the following action be taken. Motion carried.

Lynn Brase for Auditor (Bremer) – Reduce to \$10.

Urdahl for Supervisor (Cerro Gordo) – Waive.

Walinga for Sheriff (Sioux) – Waive.

Allamakee County Republican Central Committee – Uphold.

Benton County Democratic Central Committee – Uphold.

Cedar County Democratic Central Committee – Waive.

Fayette County Republican Central Committee – Uphold.

Green County Republican Central Committee – Uphold.

Palo Alto County Republican Central Committee – Waive.

Poweshiek County Democratic Central Committee – Waive.

Poweshiek County Republican Central Committee – Uphold.

Ringgold County Democratic Central Committee – Waive.

Van Buren County Republican Central Committee – Uphold.

Harrison County Republican Central Committee – Waive.

Out of State PACs

1. Retail, Wholesale and Department Store Union Comm. On Pol. Ed. – It was moved by Roe and seconded by Walsh that the civil penalty assessed for three late VSR reports be upheld. Motion carried.

Sullivan left at 4:00 p.m.

2. Bridge, Structural & Ornamental Ironworkers Local 111 PAC – It was moved by Carl and seconded by Walsh that the civil penalty assessed for 14 late VSR reports be reduced to \$50. Motion carried.

Permanent Organization Making a One-Time Contribution

1. The Waldinger Corporation – It was moved by Walsh and seconded by Roe that the civil penalty assessed for a late-filed OTC report be upheld. Motion carried.

B. Lobbyist/Clients (Rule 351 IAC 8.12) – It was moved by Roe and seconded by Carl that the following action be taken. Motion carried.

1. Susan Zalenski – Waive and admonish to exercise care in the future.

2. Iowa Respite & Crisis Care Coalition – Waive.

3. Papa's Park – Waive and admonish that if a lobbyist registers on their behalf, a client report is required. Motion carried.

4. Printing Industries of the Midlands, Inc. – Waive. Notify lobbyist that they should not be registering on behalf of the client if there is no executive branch lobbying.

5. Sac & Fox Tribe of the Mississippi – Waive.
6. Russell Stidolph – Waive.
7. Whitney & Company – Waive.
8. George Williams – Uphold.
9. Steve Exley-Schuman – Waive. Issue reprimand for failure to file accurate registration.

12. VIOLATIONS

A. Attribution Statement Violations (Iowa Code section 68A.405) – Correction advertisement information was received from the following:

Ellis for Auditor (Wright)
Lori Soloman for Brickner for Sheriff (Dallas)
Hampton-Dumont Concerned Citizens (Franklin)
Mark Zieman for Senate

B. Late-Filed Statement of Organization (Iowa Code section 68A.201) – It was moved by Walsh and seconded by Roe that letters of admonishment be sent to the following for late-filed Statements of Organization. Motion carried.

David Stanley for State Representative
Citizens for Haynes
Friends for Russ Wiesley
David W. Kirchner Committee for Sheriff (Benton)
Committee to Elect Robert J. Jansen County Supervisor (Union)
Runneberg for Sheriff (Pocahontas)
Jim Henrich for Supervisor (Plymouth)
Don Wilder for Marshall County Supervisor (Marshall)
Paul DeGeest for Sheriff (Mahaska)
Principal Financial Group/Principal Life Insurance Co.-Citizens for Unified Government (Polk)

C. Late-Filed Lobbyist Registration Statement (Iowa Code section 68B.36) – It was moved by Walsh and seconded by Carl that letters of admonishment be sent to the following for late-filed lobbyist registration statements. Motion carried.

Michelle Chatigny
Kim Miller

13. ELECTRONIC FILING UPDATE – This report was received for information.
14. BOARD QUESTIONS OF STAFF – The following reports were received for information:
 - A. Legal Counsel's Ministerial Report
 - B. Executive Director's Ministerial Report
15. ITEMS OF BOARD INTEREST NOT NEEDING ACTION – The following reports were received for information.
 - A. Income Tax Checkoff Report
 - B. State Auditor's Report of IECDB Audit

The meeting adjourned at 4:05 p.m.

Respectfully submitted,



Sandra Reier
Secretary