

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

W. CHARLES SMITHSON
Executive Director
& Legal Counsel

514 East Locust Street, Suite 104
Des Moines, Iowa 50309-1912
Telephone 515-281-4028/Fax 515-281-3701
www.iowa.gov/ethics

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

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD MINUTES DECEMBER 3, 2003 OPEN SESSION

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

BOARD MEMBERS PRESENT: Jim Albert, Jerri Leinen, Bernie McKinley, Phyllis Peters, Janet Carl, Jerry Sullivan

STAFF PRESENT: W. Charles Smithson, Sandy Reier

I. CALL TO ORDER - The meeting was called to order by Chair Albert at 12:36 p.m. with Albert, Leinen, McKinley, Peters and Sullivan present.

II. APPROVAL OF MINUTES FROM SEPTEMBER 11, 2003, OCTOBER 8, 2003 AND NOVEMBER 5, 2003 MEETINGS – It was moved by Leinen and seconded by Sullivan that the minutes of the September 11, 2003, October 8, 2003 and November 5, 2003 meetings be approved as written. Motion carried unanimously.

Carl arrived at 12:44 p.m.

A representative of Iowa Citizens for Community Improvement spoke briefly concerning their opinion that Heidi Vittetoe does have a conflict of interest when debating and voting on clean air rules because her outside employment is directly impacted by clean air rules.

III. ADJOURNMENT TO EXECUTIVE SESSION – At 12:53 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, McKinley, Peters, Carl and Sullivan voted yes in roll call vote. Motion passed unanimously.

The meeting returned to Open Session at 1:12 p.m.

Chair Albert reported the provisions of Iowa's open meetings law, specifically Iowa Code section 21.5(1)(g), which permits law enforcement agencies to go into closed session to avoid disclosure of specific law enforcement matters such as current or proposed investigations, were discussed in Executive Session. The Board discussed the applicability of deliberating the Iowa CCI complaint in executive session and whether the public interest would justify an exception. It was moved by Carl and seconded by Leinen that the Iowa CCI complaint against Heidi Vittetoe discussion and deliberation be made in open session because of the public interest. Motion carried unanimously.

Discussion centered on Iowa Code section 455.6 which says three members of the EPC shall be actively engaged in livestock and grain farming. Heidi Vittetoe is one of the three and as such was specifically put on the commission as a voting farmer member. It was moved by Peters and seconded by Sullivan that the Iowa CCI complaint against Heidi Vittetoe be dismissed. Motion carried unanimously.

At 1:38 p.m. it was moved by Sullivan and seconded by Leinen that in accordance with the provisions of Iowa Code section 21.5, subsection 1, paragraphs (c), (f) and (h), the Board return to executive session. Albert, Leinen, McKinley, Peters, Carl and Sullivan voted yes in roll call vote. Motion passed unanimously.

Minutes 12/3/03

The meeting returned to open session at 3:20 p.m.

The meeting recessed at 3:20 and reconvened at 3:30 p.m.

V. ACTION FROM EXECUTIVE SESSION – It was moved by Peters and seconded by Sullivan 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.

Citizens Against Building Code – Counsel reported the investigation revealed all campaign transactions were reported. It was moved by McKinley and seconded by Peters that the matter be closed with a finding of no probable cause to believe that a violation of Board statute or rule occurred. Motion carried unanimously.

Fort Madison School District – It was moved by Leinen and seconded by Peters that Counsel be directed to investigate whether signs were distributed prior to the election using school resources. Motion carried unanimously.

Alden School Board Election Brochure – It was moved by Carl and seconded by Peters that Counsel investigate a brochure with an improper attribution statement that was alleged to have been produced and distributed using school resources. Motion carried unanimously.

Taft Middle School – It was moved by Peters and seconded by Leinen that Counsel investigate whether the school gave permission for campaign material to be placed in school mailboxes. Motion carried unanimously.

Public Strategies Group – It was moved by Leinen and seconded by McKinley that Counsel conduct an investigation to determine if Public Strategies Group should have been registered to lobby. Motion carried unanimously.

Jim Heavens for Mayor (Dubuque) – A brochure did not contain an attribution statement but the candidate's name and address were listed on it. It was moved by McKinley and seconded by Sullivan that the Board decline to investigate this matter. Motion carried unanimously.

Gilbert Mayor Election (Story) – It was moved by McKinley and seconded by Carl that the Board decline to investigate the endorsement of a candidate by the mayor as there does not appear to be a violation of Board statute or rule. Motion carried unanimously.

Bi-State Veterans Political Education Association (Scott) – It was moved by Peters and seconded by Leinen that the Board decline to investigate a phone message made by Bi-State Veterans Political Education Association since it did not contain express advocacy. Peters, Leinen, McKinley, Carl and Albert voted yes. Sullivan abstained. Motion carried.

Charlie Brooke (Scott) – It was alleged that public resources were used for a political purpose when signs were posted at Lindsay Park in front of the Art Festival. It was moved by Carl and seconded by McKinley that this matter not be investigated since the public property is available for anyone to use. Motion carried. Carl, McKinley, Peters, Leinen and Albert voted yes. Sullivan abstained. Motion carried.

Grimes City Election (Polk) – It was moved by Peters and seconded by Sullivan that Counsel be directed to investigate whether campaign signs of candidates Tom Shatava, Tammy Evans and Ron Rosenberg were placed on the property of City State Bank and other allegations of use of bank resources for a political purpose. Motion carried unanimously.

Tom Neenan (Linn) – Information was provided to the Board alleging misuse of public resources and lack of an attribution statement. It was moved by McKinley and seconded by Sullivan that a correction ad for no attribution statement be required and that a cautionary letter be sent regarding the use of a public computer. McKinley, Sullivan and Carl voted yes. Peters, Albert and Leinen voted no. Motion failed.

After discussion, it was moved by Leinen and seconded by Peters that the a correction ad for no attribution statement be required and that Counsel investigate the possible use of public resources for a political purpose. Leinen, Peters, Carl, McKinley and Albert voted yes. Sullivan abstained. Motion carried.

Decorah Yard Signs (Winneshiek) – It was alleged that signs were placed in the right-of-way and that not all candidates were treated equally by city authorities. All candidates were reminded twice by the city about the location of campaign signs. It was moved by Carl and seconded by Leinen that the file be closed with no action. Motion carried unanimously.

Sheldon Superintendent – It was moved by McKinley and seconded by Peters that the Board decline to investigate the possible misconduct between the Superintendent of the Sheldon Community School and a female student as it does not fall within the jurisdiction of the Board and that the information be forwarded to the Ombudsman's Office. Motion carried unanimously.

Jamaica Public Library – A sample ballot was filled out and posted in the Jamaica public library as an example. It was moved by McKinley and seconded by Sullivan that a cautionary letter be sent to the library pointing out the relevant law and that in the future educational efforts should not appear to favor any candidates. Motion carried unanimously.

Davenport PACs – It was alleged that a Go Davenport PAC was created that did not file reports and that the PAC used corporate and/or governmental resources. It was moved by Carl and seconded by McKinley that this matter be investigated. Carl, McKinley, Peters, Sullivan and Albert voted yes. Leinen abstained. Motion carried.

Larry Framke – A newspaper article concerning a fundraiser listed the office phone number of Monona County Treasurer Larry Framke as a place where donations could be made or tickets purchased. It was moved by Peters and seconded by Sullivan that Counsel be directed to investigate whether public resources were used for a political purpose. Motion carried unanimously.

Jean Marinos/American Realty – It was alleged that Jean Marinos used her private business corporation, American Realty, to call voters about the city council race. It was moved by Leinen and seconded by Carl that Counsel investigate this matter to determine if there was the improper use of corporate property to advocate for or against candidates. Motion carried unanimously.

Yard Signs on City Property – It was alleged that campaign signs for candidate Mark McCormick were illegally placed on public property. The statute prohibiting the use of public funds for a political purpose only applies to governmental entities and the burden is on the governmental entity to fix the problem. It was moved by Leinen and seconded by Peters that Counsel be directed to work on legislation addressing yard signs and yard sign placement to help address this type of situation in the future and that Counsel provide the Board with a memorandum on the various laws and rules concerning yard signs, including the applicable removal provisions in Chapter 319. Motion carried unanimously.

Ames Ballot Issue Advertisement – It was moved by McKinley and seconded by Leinen that an advertisement submitted to the Board allegedly done by a group that exceeded the \$750 threshold be investigated. Motion carried unanimously.

Renee Sneitzer, Sneitzer for Senate – It was moved by Leinen and seconded by McKinley that an adjusting entry of \$449.30 be approved and that a Letter of Admonishment be issued for inaccurate reporting. Motion carried unanimously.

Harvey Ross, Ross for Rights – It was moved by Leinen and seconded by Carl that the remaining civil penalty in the amount of \$122.84 be waived, that the staff consider the committee dissolved and terminated and that a Letter of Admonishment be sent stating that if he decides to run for office again the Board expects compliance with the campaign laws. Motion carried unanimously.

Patrick Anderson, Anderson for House – It was reported that reporting issues have been resolved and the remainder of the civil penalty paid. It was moved by Carl and seconded by Sullivan that the file be closed with no further action. Motion carried unanimously.

Michael Sexton, Sexton for Iowa Senate – It was moved by Leinen and seconded by McKinley that a Letter of Reprimand be issued for misuse of campaign funds. This motion was withdrawn.

It was moved by McKinley and seconded by Leinen that a contested case be filed and the matter reset for hearing. Motion carried unanimously. Sullivan will be presiding officer.

Carolyn Riley, Friends to Elect Carolyn Riley – This candidate has not filed a January, 2003 report. The latest report shows approximately \$850 in the bank account. She did contribute \$2,000 to the campaign. It was moved by Leinen and seconded by Carl that she receive a Letter of Reprimand for failing to file the January 19, 2003 report in a timely fashion, that the civil penalties she owes be put into the state offset program for collection, that the committee be administratively dissolved, and that a Letter of Admonishment be sent stating that if she decides to run for office again the Board expects compliance with the campaign laws. Motion carried unanimously.

Cherrie Wiese, Cherrie Wiese for State Senator – A \$25 expenditure was not disclosed and contributors for \$1,020 in contributions was not publicly disclosed and cannot be accounted for. The committee has depleted its funds. It was moved by Sullivan and seconded by Leinen that a Letter of Reprimand be issued for inaccurate reporting and receipt of unidentifiable contributions, that her explanation concerning the discrepancy be scanned and put on the Web site with her campaign disclosure reports and a Letter of Admonishment issued stating that if she decides to run for office again the Board expects compliance with the campaign laws. Motion carried unanimously.

Citizens for Learning (Allamakee) – The committee failed to open a separate bank account. It was moved by Leinen and seconded by Carl that a Letter of Admonishment be issued to exercise care in the future. Motion carried unanimously.

It was moved by Peters and seconded by Sullivan that Counsel be directed to investigate the issue of state troopers fixing tickets. Motion carried unanimously.

Electronic Filing – Director Smithson reported that 10 of the 13 things undone have now been finished by ITS. The ability to generate Business Object reports is not done. Iowaccess funds will pay for enhancements to the system this fiscal year. The \$1,000 hosting fee will also be paid by Iowaccess.

V. PROPOSED ADVISORY OPINION – It was moved by Sullivan and seconded by McKinley that the last paragraph in opinions A and C be removed and then the following advisory opinions be approved. Motion carried unanimously.

- A. Grass Roots Lobbying Activities Not Considered Executive Branch Lobbying
- B. Charter Schools are Public Schools for Purposes of Ethics Laws
- C. County Central Committee Involved in Local Ballot Issue Election

VI. POLICY DECISIONS FOR THE BOARD TO MAKE

A. Does Giving of Loan Trigger PAC Registration – It was moved by Sullivan and seconded by Carl that rules be implemented to clarify that loans do not trigger PAC registration. Motion carried unanimously.

B. Hearing Costs – It was moved by Carl and seconded by McKinley to include in 2004 proposed legislation the issue of the Board having the authority to impose hearing costs. Motion carried unanimously.

C. Bonuses for Campaign Workers/Family Members – Consensus was that since bonuses are a part of salary, paying family members would be permitted. Counsel was directed to clean up the rule and/or issue an advisory opinion.

VII. BOARD RULES

A. Renumbering of Rule Chapters – A list of former and current chapters was received for information.

B. Advisory Opinions In Rules – A report on the number of opinions adopted into rule was received for information.

C. Proposed Rules for Notice of Intended Action – It was moved by Sullivan and seconded by Peters that the proposed rules concerning (1) the procedure for someone filing a voluntary statement of organization, (2) the ability of incorporated media organizations to host debates and (3) the permissible and impermissible uses of public resources be approved for Notice of Intended Action. Motion carried unanimously.

VIII. VIOLATIONS

A. Late Filed DR-1 (Statements of Organization, Iowa Code section 68A.5) – It was moved by McKinley and seconded by Sullivan that a Letter of Admonishment be sent to the following. Motion carried unanimously.

Committee to Elect Helen Miller
Friends for Zamora
Committee to Elect Pam Collins (Pottawattamie)
Jan Leff for School Board (Johnson)
Committee to Elect Charles E. Franklin Jr. (Polk)
Citizens for Responsible Spending (Delaware)
Palo Alto County Republican Central Committee
Humboldt County Republican Central Committee
Butler County Republican Central Committee
Mills County Republica Central Committee

B. Late Filed DR-OTC (One-Time Contribution) – It was moved by Sullivan and seconded by Carl that a Letter of Admonishment be sent to the following. Motion carried unanimously.

Skinner Appraisal, LLC
Des Moines Area Community College Foundation
Des Moines Area Community College Student Aid Board/Activities Council

C. Attribution Statement Violations (Iowa Code section 68A.14) – Correction advertisements were received by the following. No further action was taken.

Committee to Elect Ako (Polk)
Republican Party of Iowa ad for David Lalk
Committee to Elect Gwen Lewis (Polk)
Tom Hagarty for Mayor Committee (Black Hawk)
Brees for Council (Wapello)
Larry Wagner (Union)
Mary Davis (Monona)
Joe Jongewaard (Polk)

XI. REQUESTS FOR WAIVERS OF CIVIL PENALTIES

A. Campaign Committees (Rule 351 IAC 6.3) – The following waiver requests were deferred to the next meeting.

Statewide Committees

Jack Young for House Committee
Independent Insurance Agents of Iowa PAC
UFCW Local 230 ABC

County/Local Committees

Chickasaw County Republican Central Committee
Emmet County Republican Central Committee
Pottawattamie County Democratic Central Committee
Local Opportunity Committee (Appanoose)

Out of State PACs

Fareway Stores, Inc. PAC
International Union of Painters & Allied Trades PAC
Laborers' Local Union No. 309 (2 requests)
General Mills PAC

It was moved by Peters and seconded by McKinley that the civil penalties assessed the following be waived. Motion carried unanimously.

Statewide Committees:

America First Party Iowa

County/Local Committees

Committee to Elect Bauer (Scott)
Committee to Elect John Frueh (Scott)
Kevin Hyduk for Mayor (Linn)
Committee to Elect Mark McGee (Pottawattamie)
Pocahontas County Democratic Central Committee
Jason Geary for City Council (Woodbury)
Citizens for Ken Baird (Polk)

X. ITEMS OF BOARD INTEREST NOT NEEDING ACTION

A. Chapter 68A Renumbered – A report on the renumbering of Iowa Code Chapter 68A was received for information.

The meeting adjourned at 4:00 p.m.

Respectfully submitted,



Sandra Reier
Secretary