

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

DECEMBER 21, 2006

OPEN SESSION

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

BOARD MEMBERS PRESENT: Jim Albert, Janet Carl, Gerald Sullivan, John Walsh, Betsy Roe, Pat Harper

STAFF PRESENT: W. Charles Smithson, Sandy Reier

1. CALL TO ORDER - The meeting was called to order by Chair Albert at 11:05 am.
2. APPROVAL OF MINUTES FROM NOVEMBER 3, 2006 MEETING - It was moved by Sullivan and seconded by Harper that the minutes of the November 3, 2006 meeting be approved as written. Motion carried.
3. ADJOURNMENT TO EXECUTIVE SESSION – At 11:07 a.m. it was moved by Roe and seconded by Carl 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.

The meeting returned to Open Session at 12:10 p.m.

It was moved by Sullivan and seconded by Roe that a resolution be passed commending Sandy Reier for her service to the state of Iowa and stating that the Board wishes her the very best for the future.

4. ACTION FROM EXECUTIVE SESSION – It was moved by Sullivan 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.

Shane Shook – Investigation determined a state government computer was used to send political materials. It was moved by Roe and seconded by Harper that a Letter of Reprimand be issued and that Counsel be directed to investigate to determine if Deb Babb used a state computer to send political materials. Motion carried unanimously.

Jeff Nicholl – It was moved by Sullivan and seconded by Harper to close the investigation into whether school resources were used for political purposes with a finding of no probable cause to believe that a violation of a statute or rule under the Board's jurisdiction occurred. Motion carried unanimously.

Mary Koehler – It was alleged that a campaign announcement was made at a corporate event and that campaign cards were placed in bags distributed at the event. It was moved by Walsh and seconded by Harper to close the investigation concerning both issues with a finding of no violation of law or rule. Motion carried unanimously.

Robert Vander Plaats – Investigation determined that a \$50,000 payment was not a gift or campaign contribution, but as a result of a contract with the candidate's company. It was moved by Walsh and seconded by Roe to close the investigation with a finding of no probable cause to believe that a violation of a statute or rule under the Board's jurisdiction occurred. Motion carried unanimously.

Gene Phillips – It was moved by Carl and seconded by Walsh that a letter of admonishment be issued to the candidate for cash transactions. Motion carried unanimously.

Brooke Chesney – It was moved by Roe and seconded by Walsh to close the investigation with a finding of no probable cause to believe that a violation of statute or rule under the Board's jurisdiction occurred. Motion carried unanimously. Investigation showed campaign paperwork was timely filed and there was no evidence public funds were used for a political purpose.

Linda Voss – It was moved by Carl and seconded by Harper to close the investigation with a finding of no probable cause to believe that a violation of statute or rule under the Board's jurisdiction occurred. Motion carried unanimously. Investigation determined a picture taken at the courthouse before office hours was not the use of public resources for a political purpose.

Jesse Marzen – It was moved by Walsh and seconded by Harper that an educational letter be sent to the candidate concerning the reporting of debts and that the reporting of debts be clarified on the back of Schedule D. Motion carried unanimously.

Constance Toresdahl – It was moved by Walsh and seconded by Carl to close the investigation with a finding of no probable cause to believe that a violation of statute or rule under the Board's jurisdiction occurred since there is no evidence all campaign transactions were not disclosed. Motion carried unanimously.

A future big picture topic will be how candidates can report things more uniformly.

Jack Whitver – Investigation determined that media costs were fully disclosed but that inkind contributions from the county central committee were not reported by the candidate. It was moved by Roe that a letter of reprimand be sent to the central committee and the candidate be sent a letter of admonishment. This motion was withdrawn and the matter deferred.

It was moved by Roe and seconded by Harper that a Letter of Reprimand be issued to the following for failure to open a separate bank account.

- A. Joe Lyon
- B. Pam Sprague

Jack Willey - It was moved by Carl and seconded by Walsh to investigate whether the threshold for reporting was exceeded. Motion carried unanimously.

Burlington Derailed Blog – It was moved by Roe and seconded by Walsh to decline to investigate the blog and to continue to pursue rulemaking. Motion carried unanimously.

Republicans for Warnstadt – It was moved by Walsh and seconded by Harper to investigate whether the threshold for reporting was crossed and the attribution statement violation. Motion carried unanimously.

County Supervisor Guest Editorial – It was moved by Walsh and seconded by Harper to decline to investigate a guest editorial as the misuse of public resources for political purposes as this falls under the press exemption. Motion carried unanimously.

Dan Gonnerman – It was moved by Roe and seconded by Walsh to investigate whether all campaign transactions were properly disclosed and defer his request for waiver of the civil penalty for late filing of the October report until completion of the investigation. Motion carried unanimously.

Ad by Kelly Lewiston – It was moved by Carl and seconded by Walsh to decline to investigate the job title issue and get an attribution notice correction for failure to include a complete attribution. Motion carried unanimously.

Dallas County Hospital Board – It was moved by Roe and seconded by Walsh to investigate the possible use of public resources for a political purpose and advertisement with no attribution statement in the campaign of Joelle Miner. Motion carried unanimously.

It was moved by Roe and seconded by Harper to accept the complainant's voluntary dismissal of the following complaints and that no further action be taken. Motion carried unanimously.

- A. David Skilton v. Patrick Wegman (3)
- B. David Skilton v. Brian Quirk

Northwest Iowa Republicans – It was moved by Roe and seconded by Walsh to deny the waiver request for the May report; issue Letter of Reprimand; administratively dissolve the committee; treat the July report as a final report; and not require a final bank statement. Motion carried unanimously.

Executive Director's Salary – It was moved by Walsh and seconded by Sullivan to increase Executive Director Smithson's salary to \$91,860 annually with thanks for doing the job of several people and doing it well. Motion carried unanimously.

5. PROPOSED ADVISORY OPINIONS

A. Use of Campaign Funds for American Council of Young Political Leaders Membership – It was moved by Roe and seconded by Carl to rewrite the opinion to allow the membership concurrent with the term of office since a lifetime membership would constitute a personal benefit. Motion carried unanimously.

B. Providing Free Absentee Ballot Lists to Selected Candidates – It was moved by Roe and seconded by Walsh to approve the opinion. Motion carried unanimously.

C. Making/Receiving Contributions for Attending Another Candidate's Fundraising Event – It was moved by Sullivan and seconded by Carl to approve the opinion. Motion carried unanimously.

D. Prohibited Contribution Mailed during Session/Candidate Receives after Session – It was moved by Carl and seconded by Walsh to defer this opinion until the rule regarding when a contribution is received is amended. Motion carried unanimously.

The meeting recessed at 12:43 pm and reconvened at 12:53 pm.

E. DHS Employee Accepting Post State Employment with Provider to Disabled Persons – It was moved by Walsh and seconded by Harper to approve the opinion after correction of typographical errors. Motion carried unanimously.

6. ADMINISTRATIVE ACTION

A. Delinquent Filers/Other Potential Violations – It was reported that Tre Wilson has filed his report. It was moved by Carl and seconded by Roe that Statements of Charges be filed and hearings set for numbers 1 and 3 through 6 for failure to file disclosure reports. Motion carried unanimously. Sullivan was appointed presiding officer for all.

- 1. Chuck Allison
- 2. Tre Wilson (Filed)
- 3. Business Leadership Council
- 4. Citizen Whip
- 5. Civil Services Political Education League
- 6. MCI Iowa PAC

7. REQUEST TO SELL SERVICES – It was moved by Sullivan and seconded by Harper to approve the director's outside employment at Drake University School of Law. Motion carried unanimously.

8. BOARD RULES

A. Opinions in Rules – Received for information; no action taken.

B. Rule under Notice of Intended Action

1. Amends rule on how contributions and in-kinds are reported – It was moved by Sullivan and seconded by Roe to approve this proposed rule for Notice of Intended Action. Motion carried unanimously.

9. REQUESTS FOR WAIVER OF CIVIL PENALTIES

Campaign Committees (Rule 351 IAC 4.60)

A. Statewide Committees

1. Committee to Elect Hulsizer for House – It was moved by Roe and seconded by Harper to reduce the civil penalty assessed for a late filed July 19, 2006 report to \$25. Motion carried unanimously.

2. Hoffman for Iowa House – It was moved by Roe and seconded by Harper to reduce the civil penalty assessed for a late filed October 19, 2006 report to \$25. Roe, Harper, Sullivan, Walsh, and Albert voted yes. Carl voted no. Motion carried. This motion was reconsidered later in the meeting. It was moved by Roe and seconded by Walsh that the civil penalty be waived. Motion carried unanimously.

3. Wise Voters – It was moved by Harper and seconded by Walsh that the civil penalty assessed for a late filed October 19, 2006 report be waived. Harper, Walsh, Sullivan, Roe, and Albert voted yes. Carl voted no. Motion carried.

4. Iowa Quarter Horse Racing Association PAC – It was moved by Walsh and seconded by Roe that the civil penalty assessed for a late filed October 19, 2006 report be waived. Motion carried unanimously.

5. Iowa Retail PAC – It was moved by Walsh and seconded by Harper that the civil penalty assessed for a late filed October 19, 2006 report be waived. Motion carried unanimously.

6. Home Builders Association of Greater Des Moines PAC – It was moved by Walsh and seconded by Harper to reduce the civil penalty assessed for a late filed October 19, 2006 report to \$25. Walsh, Harper, Sullivan, Roe, and Albert voted yes. Carl voted no. Motion carried.

7. Siouxland Object One – It was moved by Walsh and seconded by Harper that the civil penalty assessed for a late filed July 19, 2006 report be waived. Motion carried unanimously.

B. County/Local Committees

1. Continue the Progress (Wapello) – It was moved by Roe and seconded by Walsh to reduce the civil penalty assessed for a late filed September 14, 2006 report to \$20. Roe, Walsh, Sullivan, Harper, and Albert voted yes. Carl voted no. Motion carried. This motion was reconsidered later in the meeting. It was moved by Roe and seconded by Walsh that the penalty be waived. Motion carried unanimously.

2. Ries for County Attorney (Adair) – It was moved by Walsh and seconded by Harper to waive the civil penalty assessed for a late filed October 19, 2006 report. Motion carried unanimously.

3. Committee to Elect Sandy Johnson (Buena Vista) – It was moved by Walsh and seconded by Sullivan to waive the civil penalty assessed for a late filed October 19, 2006 report. Motion carried unanimously.

4. Committee to Re-Elect Adamson for Supervisor (Scott) – It was moved by Roe and seconded by Walsh that the request for waiver of the civil penalty assessed for a late filed July 19, 2006 report be denied. Motion carried unanimously.

5. Committee to Re-elect Dean Kaster Supervisor (Appanoose) – It was moved by Walsh and seconded by Roe that the request for waiver of the civil penalty assessed for a late filed July 19, 2006 report be denied. Motion carried unanimously.

6. Schneider for Supervisor (Johnson) – It was moved by Roe and seconded by Walsh that the civil penalty assessed for a late filed July 19, 2006 report be waived. Roe, Walsh, Sullivan, Harper, and Albert voted yes. Carl voted no. Motion carried.

7. Citizens for Linda Orr (Clayton) – It was moved by Walsh and seconded by Roe that the request for waiver of the civil penalty assessed for a late filed July 19, 2006 report be denied. Walsh, Roe, Carl, Harper, and Albert voted yes. Sullivan voted no. Motion carried.

8. Vest for Supervisor (Tama) – It was moved by Sullivan and seconded by Harper that the civil penalty assessed for a late filed May 19, 2006 report be waived and that the rule concerning what is considered when the threshold for reporting is determined be reviewed. Motion carried unanimously.

9. Committee to Elect Dencklau, County Supervisor, District 1 (Webster) – It was moved by Walsh and seconded by Roe that the civil penalty assessed for a late filed May 19, 2006 report be reduced to \$20. Motion carried unanimously.

10. Committee to Re-elect Steve Nelson for Supervisor (Palo Alto) – It was moved by Walsh and seconded by Sullivan that the civil penalty assessed for a late filed July 19, 2006 report be reduced to \$20. Motion carried unanimously.

11. Peg Hutchison for Recorder (Warren) – It was moved by Walsh and seconded by Sullivan that the request for waiver of the civil penalty assessed for a late filed July 19, 2006 report be denied. Motion carried unanimously.

12. Lee County Republican Central Committee – It was moved by Sullivan and seconded by Walsh that the civil penalty assessed for a late filed October 19, 2006 report be waived. Motion carried unanimously.

13. Dallas County Democratic Central Committee – It was moved by Walsh and seconded by Harper that the civil penalty assessed for a late filed October 19, 2006 report be reduced to \$10. Walsh, Harper, Sullivan, and Albert voted yes. Roe and Carl voted no. Motion carried.

14. Fayette County Republican Central Committee – It was moved by Walsh and seconded by Sullivan that the civil penalty assessed for a late filed July 19, 2006 report be waived. Motion carried unanimously.

15. Mills County Republican Central Committee – It was moved by Sullivan and seconded by Walsh that the civil penalty assessed for a late filed July 19, 2006 report be reduced to \$20. Sullivan, Walsh, Roe, Harper, and Albert voted yes. Carl voted no. Motion carried.

16. Wright County Democratic Central Committee – It was moved by Walsh and seconded by Sullivan that the civil penalty assessed for a late filed July 19, 2006 report be waived. This motion was withdrawn.

It was moved by Walsh and seconded by Roe to reduce the civil penalty to \$10. Walsh and Roe voted yes. Sullivan, Harper, and Carl voted no. Motion did not pass.

It was moved by Sullivan and seconded by Harper that the civil penalty be waived. Sullivan, Harper, and Albert voted yes. Roe, Walsh, and Carl voted no. Motion did not pass.

It was moved by Roe and seconded by Walsh that agenda items 9.A.2., Hoffman for Iowa House, and 9.B.1, Continue the Progress, be reconsidered and that those civil penalties and the Wright County Democratic Central Committee penalty be waived. Motion carried unanimously.

17. Harrison County Republican Central Committee – It was moved by Walsh and seconded by Sullivan that the civil penalty assessed for a late filed July 19, 2006 report be waived. Motion carried unanimously.

18. Grundy County Democratic Central Committee – It was moved by Roe and seconded by Walsh that the civil penalty assessed for a late filed May 19, 2006 report be waived. Motion carried unanimously.

19. Montgomery County Republican Central Committee – It was moved by Sullivan and seconded by Walsh that the civil penalty assessed for a late filed May 19, 2006 report be reduced to \$20. Motion carried unanimously.

20. Howard County Republican Central Committee – It was moved by Sullivan and seconded by Walsh that the civil penalty assessed for a late filed July 19, 2006 report be reduced to \$20. Sullivan, Walsh, Harper, and Albert voted yes. Carl and Roe voted no. Motion carried.

C. Lobbyist/Client (Rule 351 IAC 8.12) – It was moved by Sullivan and seconded by Walsh that the following actions be taken. Motion carried unanimously.

1. Susan L. Roberts – Uphold
2. Marcia Rafdal – Waive
3. John R. Fitzgibbon – Uphold
4. Craig S. Smith – Uphold
5. Shawn Arena – Uphold
6. Iowa Department of Elder Affairs – Uphold
7. Iowa State Patrol Supervisor's Association – Uphold
8. Institute for Justice – Uphold
9. Johnson County Public Health – Uphold
10. Central Iowa Regional Transportation Planning Alliance – Waive
11. Des Moines Area Metropolitan Planning Organization – Waive
12. John & Mary Pappajohn Higher Education Foundation – Uphold
13. American Civil Liberties Union of Iowa – Uphold
14. DC Parents for School Choice – Uphold
15. Dana Halvorson – Waive

The meeting recessed at 2:03 pm and reconvened at 2:07 pm.

10. VIOLATIONS

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

1. Pettengill for Iowans Campaign Committee
2. Citizens for Butch Ostrander
3. Committee to Elect Lisa Bolton Smith
4. Committee to Elect Bill Zinn
5. Sandra S. Geidl for Treasurer
6. Hardin County Democrats
7. Republican Party of Iowa and Its Eisenhower Club (Linda Livingston mailing)

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

1. Johannsen for State House Committee
2. Jerry W. Lange Committee to Elect (Muscatine)
3. Tama County Enrichment Committee (Tama)
4. Citizens to Elect Ostrander (Dallas)
5. Committee to Elect Chuck Madison (Buchanan)
6. Lucas County Republican Central Committee
7. Pam Sprague for Taylor County Treasurer Committee (Taylor)

C. Late-Filed Notice of Dissolution (Iowa Code section 68A.402B) – It was moved by Roe and seconded by Carl that a letter of admonishment be sent to the following for a late-filed Notice of Dissolution. Motion carried.

1. Hoodjer for Supervisor Committee (Butler)

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

1. Cyndi Pedersen
2. Gordon Hendrickson
3. Anita Walker

11. BIG PICTURE ITEM

A. Board Code of Ethics – Discussion was held regarding the Board Code of Ethics. Consensus was to draft language to eliminate 1.4(6) which prohibits serving as a delegate to a county or state political party convention and to change 1.4(7) to allow service on another board or commission.

The meeting adjourned at 2:55 pm.

Respectfully submitted,


Sandra Reier *by K Hudson*
Secretary