

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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BOARD MEMBERS:

James Albert, Chair
John Walsh, Vice Chair
Saima Zafar
Carole Tillotson
Jonathan Roos
Mary Rueter

MINUTES

OPEN SESSION

November 10, 2011

12 NOON

JESSIE PARKER BUILDING

510 E. 12TH STREET

DES MOINES, IA

I. CALL TO ORDER –

Chair Albert calls the meeting to order at 12:11 pm.

Members present: James Albert, John Walsh, Carole Tillotson, Mary Rueter and Jonathan Roos. Saima Zafar enters 12:13 pm.

Also present: Members of Iowa Citizens for Community Improvement, members of the public, and members of the press.

Albert states there is a quorum. He requests the agenda be reordered so that the Board first hears presentations by ICCI and Michael O'Meara. He suggests the board adjourn to closed session after the presentations to consider the related complaints and then return to open session to take final action on those complaints before moving on to the remaining items on the agenda. There are no objections.

II. APPROVAL OF MINUTES –

Carole Tillotson moves the Board to approve the minutes of the Board's meetings held on July 19, 2011, August 25, 2011, September 23, 2011 and October 10, 2011. Second by Jonathan Roos. Motion carries.

III. PUBLIC COMMENT-

A. 15 minute presentation by Natalie Snyder and other members of Iowa Citizens for Community Involvement regarding the complaint ICCI filed against Environmental Protection Commissioner Brent Rastetter.

ICCI members complain the EPC is anti-regulation. Barb Kalbach says Rastetter contributed \$30,000 to Branstad's campaign and therefore he must support the Governor's agenda to deregulate. Various members of ICCI state they believe Rastetter's comments during the senate confirmation process prove he values voluntary compliance over regulation. ICCI members argue voluntary compliance does not work and Iowa needs strong and effective regulations to keep waterways protected.

Albert asks ICCI members if they believe the Board has the power to overturn a senate confirmation.

Adam Mason states he believes Rastetter has a direct conflict of interest under Iowa Code section 68B.2A and should at the very least recuse himself from voting on rules that directly impact his business. Mason tells the Board it will lose credibility if it holds otherwise.

Walsh asks if anyone on the EPC is sympathetic to ICCI's point of view. ICCI members say none of the remaining commissioners are sympathetic to their view. The pro-environmental commissioners' terms expired in April and the EPC is now stacked against regulation.

ICCI members acknowledged they expressed their concerns about Rastetter to the Senate prior to his confirmation.

B. 15 minute presentation by Michael O'Meara, assistant Polk County Attorney regarding redistricting complaint.

Michael O'Meara says he is Polk County's attorney of record with regard to the redistricting. O'Meara says Tooker provided him with a copy of the November 4, 2011 letter from the Secretary of State expressing his concern that Polk's map was drawn for improper political reasons. O'Meara says he is disappointed the Secretary did not provide Polk County with a copy.

O'Meara summarizes where the Board is with the Polk County redistricting complaint: Matt Whitaker filed a complaint with the Secretary of State (and forwarded to the Ethics Board) concerning "Map K", the redistricting map adopted by the Polk County Board of Supervisors. During the Board's investigation of the complaint, the Secretary of State rejected "Map K" because Des Moines was in 5 districts and could have been in as little as 3.

Even though the map was rejected, O'Meara encourages the Board to make a determination on whether the map was drawn for improper political purposes. O'Meara states the commissioners' integrity has been called into question and the Board is the only body that can clear their names.

Albert asks "isn't the complaint moot?" O'Meara acknowledges the Board needs an active case to decide.

O'Meara notes Tooker handed him a copy of Whitaker's new complaint shortly before the Board started its meeting. Tooker states she received a copy of the new complaint this morning and hasn't had a chance to review it. She tells O'Meara the Board members were given copies of the complaint at the same time he was.

O'Meara asks for 7 days to file a response to Whitaker's new complaint.

IV. ADJOURNMENT TO CLOSED SESSION –

Motion by Walsh to move into closed session In accordance with the provisions of Iowa Code section 21.5(1) "c" & "g". Second by Zafar. Motion passes unanimously in a roll call vote. Board adjourns to closed session at 12:57.

V. RETURN TO OPEN SESSION –

The Board returns to open session at 1:20 pm. Albert calls a 10 minute break.

At 1:30 p.m. Albert calls the meeting to order. Albert states the Board will now discuss the Rastetter complaint and the Polk County redistricting complaint.

Albert asks Tooker to review the Rastetter complaint filed by ICCI.

Tooker tells the Board the present complaint is very similar to a complaint filed by ICCI in 2003 against then EPC commissioner and hog farmer Heidi Vittetoe. In that case, the Board found Vittetoe had no conflict of interest based in part because the statute that creates the EPC requires that a certain number of farmers be on the Board. Walsh asks whether Vittetoe would have been required to recuse herself if she had an application before the EPC. Tooker says yes. The distinction is between a matter of general application or statewide policy and a matter specific to an EPC member.

Albert asks Tooker whether Rastetter's vote on water quality rules violated chapter 68B of the Code. Took says no. The rules had general application: they applied to all animal confinement operations and not just those constructed by Rastetter's company.

Tillotson states it is possible that Rastetter's business would benefit from more, rather than less restrictive rules.

Walsh notes Rastetter was appointed by the Governor and confirmed. The Board doesn't have jurisdiction to second guess those political decisions. Albert and Roos agree.

Carole Tillotson moves the complaint be dismissed. Walsh seconds. Motion carries unanimously.

The Board moves on to the Polk County redistricting complaint. Tooker recommends the Board dismiss the first complaint as moot. She suggests setting up a telephonic meeting in the near future so that she and the Board may review Whitaker's second complaint. Since the new map is similar to Map K, the investigations will still be relevant to the new complaint.

Motion by Roos to dismiss original complaint as moot. Zafar second. Motion carries unanimously.

Zafar moves the Board accept O'Meara's request to have leave to file response within 7 days (Friday the 18th) and hold a telephonic meeting in 14 days if possible. Second by Rueter. Motion carries.

Motion by Walsh to return to closed session In accordance with the provisions of Iowa Code section 21.5(1) "c" & "g". Second by Zafar. Motion passes unanimously in a roll call vote. Board adjourns to closed session at 1:51 pm.

VI. COMPLAINTS/INVESTIGATIONS DISCUSSED IN CLOSED SESSION-

Board returned to open session at 2:59 PM

Rueter moves and Zafar seconds approval of minutes from closed session of July 19, 2011, August 25, 2011, September 23, 2011, and October 10, 2011. Motion carries unanimously.

Tillotson moves the Board to dismiss the complaint against Chris Coleman, dismiss the complaint against Jeff Hiser, dismiss the complaint against Walt Rogers, dismiss the complaint against Jason Glass with reliance on exception "k" in section 68B.22 and to instruct Tooker to investigate the complaint against Kristi Keast, Suzette Kragenbrink and Lisa Greif, and to investigate possible earmarked contributions to the Butler County Republican Central Committee. Second by Rueter. Motion carries unanimously.

Zafar leaves at 3:04 pm.

VII. ADVISORY OPINIONS

A. Contributions to committees by LLC with corporate members.

Walsh moves to approve proposed advisory opinion with addition of sentence that informs the Adam Gregg that the Board is considering amending administrative rule to prohibit contributions by LLCs with corporate members. Roos seconds. Motion carries.

B. Reimbursement to state for mileage related to campaign & political travel.

Motion to approve proposed advisory opinion to Governor's legal counsel Brenna Findley by Tillotson, Rueter second. Motion carries.

VIII. REQUESTS FOR WAIVER OF CIVIL PENALTIES (Rule 351 IAC 4.60)

A. STATE COMMITTEES (Rule 351 IAC 4.59(3))

1. Henry County Republican Women's Club
2. Wapello County Republican Women's Club
3. Iowa Gun Owners PAC
4. Iowa Providers PAC

B. COUNTY/LOCAL COMMITTEES (Rule 351 4.59(2))

Daryl Wood, Keokuk County (2 reports)

Motion to approve director's recommendations en bloc by Tillotson, Walsh second. Motion carries

IX. ATTRIBUTION CORRECTIONS NOTICES –NOT NEEDING BOARD ACTION

These committees/persons were notified by Board staff that they were in violation of Iowa Code regarding attribution and were directed to submit correction notices per Administrative Rule.

- A. 21ST CENTURY LIBRARY FOR CLINTON CAMPAIGN COMMITTEE
- B. MCGREGOR-MARQUETTE CHAMBER OF COMMERCE
- C. DEB KUPKA
- D. KING FOR SUPERVISOR
- E. CHRISTINE KIRKWOOD

X. ADOPTION OF AMENDMENTS TO ADMINISTRATIVE RULES-

Rules 8.7 & 8.9 pertain to lobbyist statements and lobbyist client reports. Board received written comment from Chief Clerk of the House following notice of intended action. Comment suggested rules also be amended to eliminate any content requirements for lobbyist statements and lobbyist client reports because content no longer within the purview of the Board. Walsh moves to approve amendments to rules as modified. Rueter seconds. Motion carries.

XI. DISCUSSION OF UPCOMING LEGISLATIVE SESSION -

- Public Information Board - Albert states that he was left with the impression last session that some legislators had interest in adding these duties to the Board's authority. Roos states the Board would need resources to do this adequately but it would cost less to assign duties to Board rather than create a new agency.
- County redistricting plans – General consensus that LSA should draw county redistricting plans because it is viewed as non-partisan. At the least, commissioners should be required to keep their work product while the plans are reviewed.
- Gifts from restricted donors – Tooker suggests 68B should be amended to require executive branch employees and officials to report gifts from restricted donors

Motion to adjourn by Walsh. Second by Tillotson. Motion carries.

Meeting adjourned at 3:28 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "S. Wright".

Sharon Wright, Board Secretary