

**STATE BOARD OF ELECTIONS
MINUTES OF MEETING (AGENDA)
SEPTEMBER 1, 2004**

The Rhode Island State Board of Elections reconvened at 3:30 p.m. to take-up the Board's agenda. (See attached). A quorum included Chair Roger Begin, Vice Chair Thomas Iannitti, Commissioners Judith Bailey, John Daluz, Florence Johnson, Frank Rego and Ray Xavier. Assistant Administrator George Bowen, Supervising Account Richard Thornton and Counselor Raymond Marcaccio were in attendance, also.

First Order of Business: The Members assembled in the lower level of the State Board to test the remainder of the optical scanners for the September 14, 2004 primaries. At the conclusion of the testing, the Board declared the equipment ready for delivery.

Next Order of Business: The Board reviewed and considered appeals from persons, Political Action Committees (PACs) & Political Party Committees failing to file certain campaign finance reports and remit outstanding fines. The Members considered a waiver of fines from the following (see attached):

- Leon Tajada;**
- RI State Lodge FOP PAC;**
- Thomas Palangio;**
- Gregory J. Acciaro;**

- Richard Welch;
- RI College/AFT COPE; and
- South Kingstown Republican Town Committee.

The Board took testimony from several of the petitioners. Upon completion of the Members' discussion on the seven requests for a waiver of fines, the Board rendered its decisions.

With regard to the appeal made by Leon Tajada (request for a waiver of fines totaling \$6,687.):

Vice Chair Iannitti made a motion to adjust Mr. Tajada's fine to $\frac{1}{4}$ of the amount due, to place him on probation for one year and to order him to pay the fine within ten days of written notification of the Board's decision. Furthermore, if the appellant does not pay the fine or fails to file future reports in a timely manner for a period of one year, the Board shall reinstate the remainder of all fines and penalties. The motion, seconded by Commissioner Bailey, carried without opposition.

With regard to the appeal made by RI State Lodge FOP PAC (request for a waiver of fines totaling \$1,123.):

Vice Chair Iannitti made a motion to adjust the organization's fine to $\frac{1}{4}$ of the amount due, to place it on probation for one year and to order it to pay the fine within ten days of

Board of Elections

Minutes of Meeting

9-1-04

Page 2

written notification of the Board's decision. Furthermore, if the appellant does not pay the fine or fails to file future reports in a timely manner for a period of one year, the Board shall reinstate the waived fines and penalties. The motion, seconded by Commissioner Bailey, carried without opposition.

With regard to the appeal made by Thomas Palangio (request for a waiver of fines totaling \$5,100.):

The Board noted that Mr. Palangio has nine (9) outstanding reports, that he has a longstanding history of delinquency and that he has been before the Board with a similar request for a waiver of fines. With this, Vice Chair Iannitti made a motion to adjust Mr. Palangio's fine to $\frac{1}{4}$ of the amount due, to order him to pay the fine within ten days of written notification of the Board's decision and to send the matter on to the Office of the Attorney General (AG), if Mr. Palangio fails to comply with today's decision.

At this time, Counselor Marcaccio remarked that the Board has seven to eight lawsuits pending in court with regard to repeat offenders. He asked that the Board authorize him to initiate a suit against Mr. Palangio, if he fails to respond to today's order. With this, Vice Chair Iannitti amended his motion to strike the part about sending the matter to the AG's office and to authorize Counselor Marcaccio to handle the matter via the courts. The motion, seconded by Commissioner Johnson, carried unanimously.

With regard to the appeal made by Gregory Acciardo (request for a waiver of fines totaling \$5,043.):

Vice Chair Iannitti made a motion to adjust Mr. Acciardo's fine to $\frac{1}{4}$ of the amount due, to place him on probation for one year and to order him to pay the fine within ten days of written notification of the Board's decision. Furthermore, if the appellant does not pay the fine or fails to file future reports in a timely manner for a period of one year, the Board shall reinstate the remainder of all fines and penalties. The motion, seconded by Commissioner Johnson, carried without opposition.

With regard to the appeal made by Richard Welch (request for a waiver of fines totaling \$4,264.):

Vice Chair Iannitti made a motion to adjust Mr. Welch's fine to $\frac{1}{4}$ of the amount due, to place him on probation for one year and to order him

to pay the fine within ten days of written notification of the Board's decision. Furthermore, if the appellant does not pay the fine or fails to file future reports in a timely manner for a period of one year, the Board shall reinstate the remainder of all fines and penalties. The motion, seconded by Commissioner Rego, carried without opposition.

Board of Elections

Minutes of Meeting

9-1-04

Page 3

With regard to the appeal made by RI College/AFT COPE (request for a waiver of fines totaling \$3,448.):

Vice Chair Iannitti made a motion to adjust the organization's fine to ¼ of the amount due, to place it on probation for one year and to order it to pay the fine within ten days of written notification of the Board's decision. Furthermore, if the appellant does not pay the fine or fails to file future reports in a timely manner for a period of one year, the Board shall reinstate the remainder of all fines and penalties. The motion, seconded by Commissioner Rego, carried without opposition.

With regard to the appeal made by South Kingstown Republican Town Committee (request for a waiver of fines totaling \$1,502.):

Vice Chair Iannitti made a motion to adjust the organization's fine to ¼ of the amount due, to place it on probation for one year and to order it to pay the fine within ten days of written notification of the Board's decision. Furthermore, if the appellant does not pay the fine or fails to file future reports in a timely manner for a period of one year, the Board shall reinstate the remainder of all fines and penalties. The motion, seconded by Commissioner Johnson, carried without opposition.

Upon hearing the final appeal, Chair Begin asked the Members for further comments or discussion on the matter of appeals and fines issued pursuant to R.I.G.L. 17-25. With this, Vice Chair Iannitti remarked that the Board has been lenient while the various candidates and organizations become familiar with RI's campaign finance reporting laws. However, after this election cycle, all must be compliant. With this, Chair Begin declared this portion of the agenda concluded.

Next Order of Business: The Board considered the impact of the implementation of the Central Voter Registration System (CVRS) on the qualifications and eligibility of electors in the 2004 primary and general election.

At this time, Chair Begin invited comments on the matter from Secretary of State Matthew Brown, staff members Elections Director Janet Ruggiero and Legal Counsel Joseph DiStefano and Kim Brace

of the Election Data Services:

- Mr. Brown spoke of monies received from the federal government to determine the most up-to-date voter registration lists for RI communities;**
- Ms. Ruggiero offered that they will have accurate, final registration numbers on September 14th for the five (5) test communities (Exeter, Westerly, Smithfield, Cranston and Scituate); and**

Board of Elections

Minutes of Meeting

9-1-04

Page 4

- Mr. Brace offered a background on the work performed and methods used to determine accurate voter registration rolls for the five communities, such as, existing maps, assessor rolls, Polk Directories, federal post office lists/software, GPS tracking system etc.. Mr. Brace acknowledged that there is the potential for errors, but there are no confirmed errors at this time.**

Vice Chair Iannitti commented that while the Office of the Secretary of State's (SOS) work is admirable, he has concerns for those voters who experience a change in district, ward and/or community. The voters have a right to make an appeal should they disagree with any changes made by the SOS.

Commissioner Rego expressed concern for the disenfranchised voter. He recommended that all RI voters in the thirty-nine cities/towns be changed at the same time. He remarked that there should not be one set of rules for 5 towns/cities on September 14th and a different set (of rules) for the remaining 34.

At this time, Counselor DiStefano asked to address the Board. He commented that relying on and using old voting lists on September 14th could cause problems. The SOS has expended a great deal of time and energy to correct the voting lists and to make the (5) local boards, voters and Board of Elections aware of the changes. He maintained that it's not fair to the candidates to use outdated and incorrect (voting) lists.

Vice Chair Iannitti expressed concern that there has been no dialogue between the SOS and the Board of Elections (BOE) with regard to the implementation of the voting lists for the several communities. The Board was led to believe that it would have more time to review a procedure that may contain flaws. The Vice Chair remarked that the Board of Elections has the authority to determine final voting lists, not the SOS. With this, Mr. DiStefano offered that state and federal laws such as the Help America Vote Act (HAVA) mandate that the SOS implement a Central Voter Registry System in Rhode Island by 2007. It is the responsibility of the SOS to provide the most up-to-date information to the Board so that it may determine a final voting list.

He suggested that it would be difficult to run the September 14th primaries using outdated lists. He acknowledged that the Board of Elections determines the final list and that the window of time is short with regard to a voter challenging a change. However, Mr. DiStefano offered that there are imperfections in everything and that it would be worse for the Board of Elections to knowingly approve the use of inaccurate voting lists than to give short notice to the involved voters.

Board of Elections

Minutes of Meeting

9-1-04

Page 5

At this time, Chair Begin suggested that he is not pleased with going forward with only 5 communities using new voting lists for the September 14th primaries; he would prefer to wait until all 39 communities come on board next year and the Board adopts an appeals process. He asked for comments, discussion and recommendations from the Board and SOS in an attempt to make the best of a bad situation. Several parties spoke:

- Ms. Ruggiero offered that some of the systems in the five communities have been modified to use the new voting lists, while

some legacy systems can still be used;

- Vice Chair Iannitti and Commissioner Rego express concerns that some voters who are changed will not be given due process to challenge the change;

- Ms. Ruggiero requested that the Board give the involved communities the right to allow for the exchange of information, that is, complete voting histories and registrations,

- a representative from the Cranston Board of Canvassers expressed concern that the City of Cranston will experience staffing problems with regard to implementing changes to the voting lists;

- Ms. Ruggiero outlined the timeframe and how voters will be notified of changes in their polling locations, the use of provisional ballots and the appeals process; and

- Chair Begin offered that no matter what path is taken, some law will be violated; that is, violate the 30 day law or allow persons to vote where they should not. It is an awkward situation that has come to light so close to the primary.

Upon conclusion of the discussion period, Commissioners Daluz and Johnson made and seconded a motion, respectively, as follows: the local boards are best prepared to and will go over the facts; the SOS and various local boards can share information; the local boards will make the decisions with regard to changes in the lists, not SOS; the local boards will hear appeals from voters who wish to challenge their change, the State Board will hear appeals from decisions of local boards and the Supreme Court will hear appeals from decisions of

the State Board; and no communities will change after September 27th.

The motion carried 4-3.

ATTEST:

Frances A. Keating

Coordinator, Special Projects

Board of Elections

Minutes of Meeting

9-1-04

Page 6

Next Order of Business: Pursuant to §42-46-6(c), Vice Chair Iannitti made a motion for the Board to convene in Executive Session on an emergency basis to discuss the job performance of a Board employee. The motion, seconded by Commissioner Rego, carried unanimously.

EXECUTIVE SESSION: Approximately 4:45 p.m. – 6:00 p.m.*

Upon completion of the Board's discussion, Vice Chair Iannitti made a motion to seal the minutes of the Executive Session and to go back into open session. The motion seconded by Commissioner Rego, carried unanimously.

The Board voted unanimously to place Executive Director Robert J. Fontaine on administrative leave for the reasons discussed in executive session.

With no other matters for discussion, Chair Begin asked that the Board adjourn at 6:00 p. m.. With this, Vice Chair Iannitti made the motion, seconded by Commissioner Rego. The motion carried unanimously.

ATTEST:

Raymond Marcaccio

Legal Counsel, Board of Elections

***(Note: See below for amendment to September 1, 2004 minutes.)**

AMENDMENT

MINUTES OF

SEPTEMBER 1, 2004 MEETING

AMENDED AT MEETING OF THE BOARD

ON OCTOBER 5, 2004

The Rhode Island State Board of Elections met at 3:10 p. m. on October 5, 2004. A quorum included Chair Roger Begin, Vice Chair Thomas Iannitti, Commissioners Judith Bailey, John Daluz, Florence Johnson, Frank Rego and Raymond Xavier. Acting Executive Director George Bowen, III and Attorney Raymond Marcaccio were in attendance, also.

When Chair Begin asked that the minutes of 9/1/04 and 9/13/04 be accepted as presented Commissioners Bailey and Daluz made and seconded the motion, respectively. The approval of the 9/13/04 minutes carried without opposition.

However, at this time, Vice Chair Iannitti commented that the minutes of 9/1/04 do not accurately reflect what transpired in the executive session which began at approximately 4:45 p. m.

With this, the Vice Chair asked that the minutes of the executive session held on September 1, 2004 be amended. Vice Chair Iannitti stated that there were two motions that were voted on and passed by the Board during the executive session and that the motions/votes appeared to be missing. The actual movement to place the executive director on administrative leave and the motion made by the Vice Chair to ask the auditor general to come to the Board of Elections and conduct a review were missing from the minutes. Having said this, Vice Chair Iannitti asked Mr. Marcaccio if he agreed with him. Attorney Marcaccio reflected on the matter and answered that it did appear that the minutes were not complete. Going forward, Mr.

Marcaccio recommended that the minutes be amended to include the two motions and votes taken by the Members in the executive session. With this, Commissioner Bailey made a motion to accept the amended minutes of 9/1/04 with the recommended inclusion of the two motions and votes. The motion, seconded by Commissioner Johnson, carried without opposition.

ATTEST:

Frances A. Keating

Coordinator, Special Projects