

# **R. I. STATE BOARD OF ELECTIONS**

## **MINUTES OF MEETING**

**June 27, 2006**

**Acting Chairman Thomas Iannitti commenced the meeting of the Board at 3:05 p.m. with a roll call. A quorum was present and included Acting Chair Iannitti, Commissioners John Daluz, Florence Gormley, Frank Rego and Raymond Xavier. Executive Director Robert Kando, and Counselor Raymond Marcaccio were also present.**

**First Order of Business: Commissioner Gormley moved to approve minutes of 4/26/06 9:30 a.m. and 10:00 a.m., 5/2/06 and 5/12/06. Second by Commissioner Rego. Motion carried without opposition.**

**Next Order of Business: To finalize a matter considered at a public hearing held on May 2, 2006. Commissioner Xavier moved to adopt Rules and Regulations Proposed By the Rhode Island Board of Elections Relating to Tabulation of Mail Ballots. Second by Commissioner Gormley. Motion carried without opposition.**

**Next Order of Business: Commissioner Gormley motioned to refile Amended Regulations Adopted By the State Board of Elections in Connection with Challenging the Registration of a Voter Pursuant to Section 17-9.1-28 of the General Laws of Rhode Island (last filed 9/26/95). Second by Commissioner Xavier. Motion carried without opposition. Before going forward, Acting Chair Iannitti noted that the**

refiling of the regulation is part of the Board's on-going effort to update the rules and regulations filed with Office of the Secretary of State.

**Next Order of Business:** Board conducted a public hearing to amend Rules and Regulations For Provisional Voting Adopted By the Rhode Island Board of Elections (last filed 3/7/05, ERLID#: 3385). At the Acting Chair's request, Director Kando presented an update and recommendations to the Board. Mr. Kando informed the Members that the RI American Civil Liberties Union (ACLU) indicated an interest in providing testimony on provisional voting but the organization was still reviewing the regulations. Mr. Kando recommended the following: that the Board offer the opportunity to any person(s) present today to address the Board on the matter and to continue the hearing until the next Board meeting where the ACLU, and only the ACLU, would be allowed to offer testimony. All other interested parties could address the Board at today's hearing. Commissioner Gormley moved to accept the Director's recommendations. Second by Commissioner Daluz. The motion carried without opposition.

**Next Order of Business:** Appeals of fines issued pursuant to RIGL 17-25. The Board held public hearings pertaining to the following campaigns: Steven J. Antonson, Sr., Kenneth R. Dolbashian, David R. Carlin, III and Middletown Firefighters COPE. Acting Chair Iannitti asked Mr. Thornton to present the facts in the several appeals.

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**With regard to the appeal brought on by Mr. Antonson:**

**The appellant and/or representative were given the opportunity to plead the matter. When no one came forward to address the Board, the Acting Chair asked for a motion. In keeping with the Board's past practice, Commissioner Gormley moved to reduce the fine to 25% of the amount due; to direct Mr. Antonson to pay the reduced fine within 10 days; to stay current with any future filing(s); and to place him on a one-year probation. Second by Commissioner Daluz. Motion carried without opposition.**

**With regard to the appeal brought on by Mr. Dolbashian:**

**The appellant and/or representative were given the opportunity to plead the matter. When no one came forward to address the Board, the Acting Chair asked for a motion. In keeping with the Board's past practice, Commissioner Gormley moved to reduce the fine to 25% of the amount due; to direct Mr. Dolbashian to pay the reduced fine within 10 days; to stay current with any future filing(s); and to place him on a one-year probation. Second by Commissioner Daluz. Motion carried without opposition.**

**With regard to the appeal brought on by Mr. Carlin, III:**

**The Board agreed to delay the hearing until later in the meeting.**

**With regard to the appeal brought on by Middletown Firefighters COPE:**

**The appellant and/or representative were given the opportunity to plead the matter. Mr. Steven Rodriques addressed the Board on behalf of the organization. Mr. Thornton offered that recent changes in the filing schedule had an impact on the amount due. He (Thornton) recommended that the amount due be adjusted down from \$ 1,424. to \$ 683. Acting Chair Iannitti asked for a motion. In keeping with the Board's past practice, Commissioner Gormley moved to reduce the fine to 25% of the amount due; to direct the organization to pay the reduced fine with 10 days; to stay current with any future filing(s); and to place the organization on a one-year probation. Second by Commissioner Rego. Motion carried without opposition. Before going forward, the Board clarified the amount the organization was ordered to pay. The amount due: \$ 170.**

**Next Order of Business: Board complaint regarding Democratic National doorknob hanger with return postcard altered with addressee named as Eulogio Azevedo, candidate for council, ward 8, Providence. The Board is interested in Mr. Azevedo's action because it may be a violation of certain campaign finance laws. (Note: Local candidate prohibited from using national committee monies to further**

his/her candidacy.)

Upon Mr. and Mrs. Azevedo addressing the Members, the Board determined that there was improper use of the items in question but there was no intent on the couple's part to circumvent the law. When the Acting Chair asked for a motion, Commissioner Gormley moved that the couple be ordered to cease and desist the practice. Second by Commissioner Daluz. The motion carried without opposition.

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**Next Order of Business: Discussion of the Superior Court Order of GOP/Carcieri vs. Board of Elections. Acting Chair Iannitti began the discussion by posing questions to Attorney Marcaccio. Mr. Marcaccio confirmed that the Board could not act on the matter while the case is pending. Going forward, Mr. Marcaccio stated that when he asked the parties (GOP/Carcieri) if they would agree to the insertion of language that would clarify Judge Fortunato's ruling, they (GOP/Caracieri) responded in the negative. Attorney Marcaccio added that any future conduct by the Board resulting in the Board taking action that adversely affected the Governor would be a violation of the plaintiffs' legal rights and the court order. When the Acting Chair questioned if the Board could meet for the purpose of determining where the case**

is going and to possibly entertain a motion to dismiss, Attorney Marcaccio answered in the affirmative. Presently, the Board is waiting for the Supreme Court to document the case and to set a schedule. Before leaving the matter, Mr. Marcaccio offered that the court would probably not receive a full briefing until late fall.

**Next Order of Business: Board of Elections' legal fees in the amount of \$231,000.** At the request of Acting Chair Iannitti, the Members received an itemized list of monies spent on BOE legal fees for fiscal 2006. After the Members' reviewed the list, Mr. Iannitti asked that the breakdown be made a part of the record. The Acting Chair offered that the breakdown and review were important because all of the Members should be aware of the monies spent and any future tax dollars that may be expended with regard to the "Carcieri" matter.

At this time, Acting Chair Iannitti asked for comments from the Members and staff. Commissioner Xavier offered that the cost of the case was the reason he (Xavier) voted, early on, to send the matter to the (RI) Attorney General's Office. Attorney Marcaccio agreed with a statement made earlier by Director Kando that the bulk of the legal fees had already been spent on research for the "Carcieri" matter. If the Board proceeds with the appeals process, although expensive, it should cost considerably less than the research phase. In light of all the recent court cases, Chair Iannitti offered that the Board might want to discuss bringing back the position of a staff attorney.

**Next Order of Business: Ballot advocacy and PAC reporting requirements – post ACLU v. Board of Elections. Director Kando presented an update on the matter to the Board. The Director reported that the ballot advocacy statute was on the governor’s desk and could have already been signed. The Director thanked Attorney Marcaccio for his assistance and several organizations including United Way, Common Cause and American Civil Liberties Union who advocated for that ballot measure at the State House. Commissioner Gormley suggested that the agency send “thank you” letters to those organizations who assisted the Board. All the Members agreed that this would be a nice gesture.**

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**At this time, the Director asked the Board’s accounting supervisor Ric Thornton to introduce and review the several new and/or modified ballot advocacy and PAC reporting forms to the Members. There was a brief discussion with regard to the forms and the implementation date of said forms.**

**Next Order of Business: Proposed form – Complaint Acknowledgment Cards. The Acting Chair suggested that when the Board receives a complaint, the agency notify the petitioner via a**

**postcard that the complaint has been received. Several Members agreed with the concept of sending a written receipt, however, they preferred notification in the form of a letter. For privacy reasons, the Board will send a letter upon receipt of a complaint.**

**Going forward, the Acting Chair emphasized that all Members must be made aware of any complaint(s) filed with the Board of Elections. The Board needs to assure the person or organization filing the complaint of the following: the full board is aware of the complaint; an investigation will be conducted; and a determination will be sent to the complainant at the conclusion of the investigation.**

**At this time, the Board granted Mr. Carlin, III a continuance of his appeal to the next meeting.**

**Next Order of Business: Discussion and vote on ES & S AutoMark™ Service Contract. The Board held a brief discussion on the contract with its one-year warranty. Upon receiving assurance that all parties involved were comfortable with the agreement, Acting Chair Iannitti asked for a motion. Commissioner Gormley moved to accept the service contract as presented to the Board. Second by Commissioner Xavier motion. The motion carried without opposition.**

**At this time, the Acting Chair welcomed a member of the audience, Providence Journal staff writer Ms. Elizabeth Goudrais.**

**Next Order of Business: Executive Director's Report. Director Kando presented three (3) items for the Board's review: expired filings; filings invalidated by an act of the legislature or another law; and unnecessary filings and items that were filed with the Office of the Secretary of State, such as, Board advisory opinions, guidelines, policies, campaign finance manuals and annual reports of campaign contributions. The Director recommended and the Board agreed not to refile the several items with the Office of the Secretary of State. With this, the Acting Chair asked for a motion. Commissioner Gormley made a motion to accept the recommendation. Second by Commissioner Daluz. The motion carried without opposition.**

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**Going forward, Director Kando spoke of a report of preparations for the 2006 statewide primary and election prepared and e-mailed to the Commissioners by Robert Rapoza. Commissioner Rego requested that the e-mail be re-sent to him, as he did not receive the attachment and may have questions once he receives the report.**

**Acting Chair Iannitti remarked that his only concern is that the Board has rules and procedures in place for the election cycle, especially, in light of several recent court cases. When Mr. Iannitti asked the**

**Director if he or the staff needed anything from the Members, Mr. Kando answered “not at this time”. The Director then assured the Board that preparations were on schedule.**

**Mr. Rego asked for a schedule of meeting dates with regard to hearings, nomination papers and certification of candidates for the upcoming elections. Director Kando responded that the Board had been typically meeting on Tuesdays at 3:00 p.m. and that he (Kando) would notify the Board of any anticipated dates by e-mail.**

**At this time, Ric Thornton notified the Board that the technical review committee formed to oversee the Matching Public Funds (MPF) program is about to conclude its work. The committee consists of Commissioner Daluz, Robert Kando, Ric Thornton and Henry Johnson. Acting Chair Iannitti asked that the record show that Commissioner Daluz represents the Board on the committee.**

**Going forward, Mr. Thornton addressed the Board regarding delinquent campaign reports and fines for candidate Suzanne E. Pouliot. Earlier this year, Ms. Pouliot paid \$16,000 in court-ordered fines. She dissolved her campaign account on May 1, 2006, however, she continues to owe roughly an additional \$ 2500. in penalties and fines. The added \$2500. penalties and fines are for delinquent reports due after satisfying the court order and prior to her closure of the account. Because Ms. Pouliot already paid \$ 16,000. in fines and penalties and did not receive any contributions and/or expend any**

monies after paying the court-ordered fines and dissolving her account, Mr. Thornton asked that the Board suspend the additional penalties and fines. With this, the Acting Chair asked for a motion. Commissioner Gormley moved to suspend the additional penalties and fines. Second by Commissioner Daluz. The motion carried without opposition.

**Next Order of Business: Commissioners' Comments.** Commissioner Rego queried if the campaign finance division had any way of determining if and when a candidate filed his/her seven-day finance report. Commissioner Rego expressed a concern that candidates might accept and/or expend contributions, ignore the seven-day rule and then file the information after the primary or election. He remarked that voters need to know who contributed to the campaigns and how the monies were spent before they vote, not

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after the primary or election. Commissioner Rego offered that there be a press release naming those candidates or organizations who file late. Mr. Thornton assured Commissioner Rego that this type of reporting information would be available in a timely manner for media and public review.

**At 4:05 p.m. and with no other business before the Board, Acting Chair Iannitti asked for a motion to adjourn. Commissioner Rego moved to adjourn. Second by Commissioner Xavier. The motion carried without opposition.**

**Minutes based on audio tape recording.**

**Submitted by,**

**Frances A. Keating**

**Coordinator, Special Projects**