

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

## **MINUTES OF MEETING**

**July 24, 2006**

**The Board of Elections convened at 8:01 a.m. with a roll call. A quorum was present and included Commissioners John Daluz, Florence Gormley, Frank Rego and Raymond Xavier. Executive Director Robert Kando was also present.**

**The board heard challenges to nominations for the September 12, 2006 primaries for the following candidates: Patricia A. Serpa, Melissa Flaherty, Keith E. Fayan, Neil J. Chionchio, and Nancy S. Michaud.**

**First hearing: The appeal of the West Warwick Board of Canvassers' decision on the candidacy of Patricia Serpa for the Office of State Representative District, 27, the Board received testimony, written and/or oral arguments from Ms. Serpa and her attorney Terrance Livingston and from Alan Palazzo and attorney Giovanni Cicione who filed the challenge.**

**Ms. Serpa filed declaration papers for school committee and state representative. A 2005 state law prohibits multiple declarations, thereby limiting a candidate to one race. The challengers maintained Ms. Serpa's candidacy for District 27 was invalid because she filed for the House race after first declaring for reelection to the school committee. (Note: Ms. Serpa did not return nomination papers for the**

**school committee race.)**

**After arguments Commissioner Gormley made a motion to allow the candidacy of Ms. Serpa to run for the Office of State Representative, District 27 and, thereby, upholding the decision of the West Warwick Board of Canvassers. Second by Commissioner Daluz. The Board voted 3-1, Commissioners Gormley, Daluz and Rego in favor Commissioner Xavier against.**

**Next hearing: With regard to the appeal of the North Smithfield Board of Canvassers' decision on the candidacy of Ms. Melissa Flaherty for the Office of School Committee, a quorum was present and included Acting Chair Thomas Iannitti, Commissioners John Daluz, Florence Gormley, Frank Rego and Raymond Xavier. Executive Director Robert Kando was also present.**

**This matter concerned dual declarations and a similar situation with regard to the previous hearing. Ms. Flaherty filed candidacies for school committee and town council. Although Ms. Flaherty withdrew her candidacy for the town council seat, North Smithfield Canvassing Authority Member Robert Boucher filed the challenge and maintained that Ms. Flaherty violated statute 17-14-2(b) by filing two declarations. Mr. Boucher asked the state board to deny Ms. Flaherty candidacy for both offices and to overturn the ruling of the North Smithfield Board of Canvassers that allowed her candidacy for school committee the only office that she returned nomination papers.**

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**After the hearing Commissioner Gormley moved to allow Ms. Flaherty's candidacy for school committee second by Commissioner Daluz. The Board voted 4-1 to allow the candidacy. Acting Chair Iannitti and Commissioners Gormley, Daluz and Rego in the affirmative Commissioner Xavier against the motion.**

**Next hearing: With regard to an appeal of the Cumberland Board of Canvassers' decision on the candidacy of Keith E. Fayan for the Office of Town Council, District 1, a quorum was present and included Acting Chair Thomas Iannitti, Commissioners John Daluz, Florence Gormley, Frank Rego and Raymond Xavier. Executive Director Robert Kando was also present.**

**This matter concerned the following facts: Mr. Fayan was registered in the Town of Cumberland, district 5, since 1988; he moved from district 5 to district 1 in the same town (Cumberland), he registered to vote from District 1 on June 14, 2006; and declared for the Office of Cumberland Town Council, District 1 on June 27, 2006. (Note: Declaration filing date was seventeen days short of the required thirty-day registration requirement in the new district.)**

**The Board received testimony, written and/or oral arguments from Mr. Fayan and his attorney John Mancini and challenger Antonio J. Albuquerque and his attorney Thomas Hefner.**

**On July 20, 2006, the Cumberland Canvassing Authority held a meeting to vote on the objection of Mr. Albuquerque to the declaration of candidacy of Keith E. Fayan. Citing 17-14-1.2 and 17-14-2, the local board voted 3-0 to deny Mr. Fayan the opportunity to be a candidate for Council District 1.**

**At the July 24th hearing before the State Board, Mr. Fayan sought to appeal the local board's decision rendered on July 20, 2006 which disqualified him as a candidate in the upcoming election for the Cumberland Town Council, District 1 seat.**

**Upon listening to the parties involved in the case, the Board voted 5-0 to uphold the decision of the Cumberland Canvassing Authority, that Mr. Fayan had failed to establish his residency for the 30 day period preceding his declaration to run for the Council District1 seat. Motion to disallow candidacy by Commissioner Gormley second by Commissioner Daluz. In favor to disallow Acting Chair Iannitti, Commissioners Gormley, Daluz, Rego and Xavier. All in favor to disallow.**

**Next hearing: A quorum was present and included Acting Chair**

**Thomas Iannitti, Commissioners John Daluz, Florence Gormley, and Raymond Xavier. Executive Director Robert Kando was also present.**

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**This matter concerned the following: Mr. Kevin M. Dwyre II of Modena Avenue, Providence, RI submitted a written communication to the Office of the Secretary of State objecting to the signatures on Mr. Chionchio's nomination papers for Democratic Candidate for the Office of State Representative, House District 6. Testifying before the State Board, Mr. Dwyre alleged that some signatures on Mr. Chionchio's nomination papers were not signed by the named individuals and thus not witnessed by Neil James Chionchio, the person circulating the nomination papers. Mr. Dwyre asked that the Board disqualify each and every one of the signatures on the nomination papers arguing that the invalid signatures obtained by the candidate (himself) tainted all the signatures.**

**Mr. Chionchio's attorney, Keven McKenna, spoke of state statutes and deadlines with regard to nomination papers for candidates running for state vs. local office and argued that his client committed no wrong and met all the deadlines.**

**Upon listening to the arguments made by the several parties involved in the case, the Board voted 4-0 to allow Mr. Chionchio to run for State Representative, District 6. The roll call vote was as follows: motion by Commissioner Gormley and second by Commissioner Daluz. In favor Acting Chair Iannitti and Commissioner Xavier, Gormley and Daluz.**

**Next hearing: With regard to an appeal brought on by Dennis Michaud on behalf of Nancy Springett Michaud, Republican Candidate for the Office of State Representative District, 2, a quorum was present and included Acting Chair Thomas Iannitti, Commissioners John Daluz, Florence Gormley, and Raymond Xavier. Executive Director Robert Kando was also present.**

**In his communication to the Office of the Secretary of State, Mr. Michaud wrote that he objected to the signature count provided by the Cities of Providence and East Providence which indicated that Ms. Michaud had a total of forty-one (41) good signatures on her nomination papers. (Note: With regard to the office of state representative, a total of 50 valid signatures are required for ballot placement.)**

**When the Board invited the parties involved to present arguments in the matter, no one stepped forward to address the Members. With this, the Board voted 4-0 to deny the appeal of Dennis Michaud; thus, the total number of signatures remained at forty-one. The roll call**

**vote was as follows: motion by Commissioner Gormley and second by Commissioner Daluz yea by Acting Chair Iannitti and Commissioner Xavier, Gormley and Daluz.**

**The hearings with regard to all objections to nominations for the September 12, 2006 primaries concluded at 10:18 a.m.**

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**Going forward, the Board continued with its June 27, 2006 public hearing concerning proposed rules and regulations by the Board of Elections. Upon reviewing the “Amended Rules & Regulations For Provisional Voting Proposed For Adoption By The Rhode Island Board of Elections,” the Members voted to adopt the rules as presented to the body.**

**With no other business before the Members, the Board adjourned at 10:20 a.m.**

**Minutes based on audio tape and notes.**

**Submitted by,**

**Frances A. Keating**

**Coordinator, Special Projects**