

R. I. STATE BOARD OF ELECTIONS
MINUTES OF MEETING
July 28, 2010

The Rhode Island State Board of Elections convened at 4:12 PM, a quorum included Vice-Chairman Frank Rego, Commissioners Florence Gormley, Richard DuBois, Richard Pierce, and William West. Executive Director Robert Kando and Board legal counsel Raymond Marcaccio were also in attendance.

First order of business: Appeal from the Pawtucket Board of Canvassers decision allowing the Democratic Endorsement of Mr. Mercer for City Council Ward 3 filed by Mr. O'Neill Democratic City Council Candidate Ward 3. Attorney James Hanley represented the Pawtucket Democratic City Committee, Mr. Mercer acted pro se and Attorney Daniel McKinnon represented Mr. O'Neill.

Attorney McKinnon cited state law including the provisions of R.I.G.L. 17-12-11, and noted that the time period for endorsements had lapsed prior to the filing of the Ward 3 Council endorsement of Mr. Mercer. He also stated, that neither the statute nor case law supported an extension of that period for any reason, including mistake.

Attorney Hanley and Mr. Mercer both stated that the Ward 3 committee had met and voted in advance of the deadline and filed its ward endorsements but mistakenly failed to list Mr. Mercer as its endorsed candidate for Council ward 3. Mary Bray, Chairwomen of the Pawtucket Democratic City Committee provided testimonial evidence that described the circumstances surrounding the omission of Mr. Mercer's name from the endorsement list. Mr. Hanley, in support of his argument to allow the endorsement, cited a Connecticut case that allowed a late endorsement under similar circumstances.

The Board Members, after noting their vote of July 21st that declined to extend the deadline for the West Warwick Democratic Town Committee under similar circumstances voted unanimously not to allow the endorsement, on a motion by Commissioner Pierce that was seconded by Commissioner DuBois.

Next order of business: Appeal of the Cumberland Board of Canvassers decision allowing the Candidacy of Ms. Farrell for Representative in the General Assembly filed by Ms. MacBeth, Candidate for Representative in the General Assembly.

Attorney David Ursillo represented Ms. MacBeth and Attorney Terrence Livingston represented Ms. Farrell. The parties agreed to a statement of facts and joint exhibits (attached). Attorney Ursillo and Ms. MacBeth both cited the fact that Ms. Farrell had filed a withdrawal of candidacy in conformance with R.I.G.L. 17-14-15 during the declaration period and argued that no statutory provision allowed a candidate to rescind the withdrawal.

Mr. Livingston argued that the withdrawal statute, 17-14-15, refers to when a person has been nominated and that if a candidate who has merely filed declaration papers wished to withdraw, the declared candidate, would merely fail to pick-up the nomination papers or fail to return the nomination papers. Mr. Livingston also stated that a person was not nominated until nomination papers were certified by the board of canvassers as sufficient for nomination, at which time the withdrawal for candidacy statute became effective. Commissioner Gormley moved to allow Ms. Farrell's candidacy, seconded by Commissioner Pierce and voted unanimously by the Board.

Next order of business: Appeal by James B. Spooner from the Secretary of States decision regarding insufficient number of nomination signatures filed for the office of Lieutenant Governor. Mr. Spooner testified that the nomination process was difficult due to the number of signatures required and that each nomination paper had to be delivered to the board of canvassers for only that community and that he was unable to deliver all his nomination papers because of the distances involved, which resulted in only 450 certified signatures for an office that requires 500 signatures.

After a discussion, where several commission members sympathized with Mr. Spooner's position, Commissioner Pierce moved to deny Mr. Spooner's appeal to allow him to be placed on the ballot. The motion was seconded by Commissioner Gormley and passed unanimously.

At 6:08pm Commissioner Pierce moved to adjourn; the motion was seconded by Gormley and passed unanimously.

Andreza Skipworth