



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Minutes of the April 6, 2007 Meeting of the
Commission on Governmental Ethics and Election Practices
Held in the Commission's Meeting Room,
PUC Building, 242 State Street, Augusta, Maine

Present: Hon. Andrew Ketterer, Chair; Hon. Jean Ginn Marvin; Hon. Vinton Cassidy; Michael Friedman; Jonathan Wayne, Executive Director; Phyllis Gardiner, Counsel. Hon. Mavourneen Thompson by telephone conference.

At 9:13 A.M., Chair Ketterer convened the meeting. Mr. Ketterer reminded the group that the items on the agenda are a portion of the April 5 meeting agenda that was rescheduled to today due to bad weather.

Agenda Item #1 – Ratification of November 20 and December 12 Meetings

Ms. Ginn Marvin moved, Ms. Thompson seconded, and the Commission voted unanimously (4-0) to ratify the minutes of the November 20, and the December 12, 2006 meetings.

Mr. Cassidy joined the meeting.

Agenda Item #2 – Karl W. Turner Request for Recommendation

Mr. Wayne informed the group that this request came about when he was before the Appropriations & Financial Affairs Committee last month when the question came up as to whether the MCEA may have a short fall in funds during the next election (2010) for governor which could possibly require the Commission to restrict candidates for governor. At that meeting, Senator John Martin stated that the Legislature could, through an amendment to the budget bill, end funding for gubernatorial candidates.

Senator Turner asked for a recommendation from the Commission as to whether there should be a repealing of the 1996 MCEA law which includes gubernatorial candidates. Mr. Wayne stated a few different options that would be possible. 1) Support funding for gubernatorial candidates as was past in the 1996 law; 2) Commission only administers the program that was passed by the citizens, changes

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should come from the Legislature; 3) Publicly funded candidates should not be part of the MCEA program any longer (that is not was Mr. Wayne would recommend since the law was passed by the citizens.) Mr. Wayne feels any repeal should be a public process. There are currently six bills before the Legislature to make it more difficult to qualify for MCEA funds for candidate for governor.

Alison Smith, co-chair, ME Citizens for Clean Elections, addressed the board. Ms. Smith stressed that the citizens created MCEA, voters passed and the law states the Commission is in charge of administering the MCEA. Overall this is a very successful program, the system works well. Over the years, the system has been 'tweaked' to keep it working well. Ms. Smith spoke to the issue of the Legislature borrowing money against the MCEA fund and have not returned all the money back to the Fund. She informed the group that the original process established a funding mechanism to build up the Fund over a four year cycle in a dedicated, non lapsing fund in order to provide for future use during an election year. Ms. Smith believes that borrowing against the Funds has created the current funding shortfall.

Ms. Smith also strongly urged the Commission not to tamper with the matching funds process, since it is a successful mechanism for the MCEA. She believes this is a cash flow issue and not a funding issue.

Ms. Smith also noted that Senator Martin's suggestion that the Appropriations Committee do away with the gubernatorial financing would be undemocratic since this was a citizen initiative. It would undermine the law that the citizens voted on; they should be the ones to decide on a repeal by way of public vote. In closing, she stated that the MCEA has provided many people the opportunity to run for public office that would not have been able to do so if it were not for this program.

Mr. Ketterer noted that there were two additional materials pertaining to this matter. One, a letter from the League of Women Voters of Maine, and a second letter from Jon Bartholomew, Common Cause Maine.

After a lengthy discussion, the Commission felt that its role was to only administer the MCEA, not make changes to it since it was a citizen's initiative. If the Legislature wants to make changes to it, they would be the body to do so.

Mr. Friedman stated that he believes the Commission should be more focused on getting the money back into the MCEA where it belongs instead of changing the rules for gubernatorial funding. The program has been successful overall.

Mr. Ketterer believes major policy issue changes are not the responsibility of the Commission. He also confirmed that the economic shortfalls due to previous legislative actions play a major part in the current funding problems.

After further discussion, the Commission agreed that the best action to take would be a letter to the Appropriations & Financial Affairs Committee in support of funding the gubernatorial candidates as the law is currently written.

Agenda Item #3 – Proposed Changes to Commission Bill

Mr. Wayne explained that since the bills submitted to the Legislature have not been printed, the staff has made a few amendments. Regarding the gubernatorial election, in addition to having candidates in order to qualify for governor collect \$15,000 they also would be required to file documents in support of the qualifying forms. The commission also would audit all MCEA candidates running in the gubernatorial races. Mr. Wayne handed out a chart regarding the timing of matching funds for gubernatorial candidates. The staff proposes to provide a larger initial payment in June in order to give them access to money earlier in their campaigns.

Mr. Cassidy motioned to accept the staff recommendation and include these amendments to the proposed bills submitted to the Legislature, Ms. Ginn Marvin seconded. The Commission voted unanimously (5-0) to adopt the staff recommendation.

Agenda Item #4 – Adoption of Changes to Commission Rules

Paul Lavin, Assistant Director, outlined the comments received and changes the staff has recommended. These changes were not made because of comments received. In Chapter 1, the following changes are recommended:

- Eliminating the 15 day period to correct errors on reports – eliminate that rule and let staff determine on case by case basis.

- Clarification of existing rule – how filers (candidates and PACs) should report expenditures made by consultants or other agents. Need more clarification on reports, should be itemized, as it states in the rule.
- Delete a proposed rule regarding voter guides and legislative score cards as an expenditure. This was as a result of the MERI Voter Guide questionnaire distributed back in the fall. There are currently several bills proposed that will change this rule also. If any of the bills pass, we can do another rulemaking to make the changes.

Chapter 3 changes as follows:

- Receipt and Acknowledgment form changes. In order to verify validity, proposes include having circulators sign the form, attest to validity of contributions and the staff recommends requiring a phone number be a voluntary option.
- Request for certification process. This is a staff initiated change, mainly to clarify the process; it keeps the same requirements; however, if all the required documents cannot be provided by the deadline, the candidate may request a waiver to submit the documents after the deadline. The receipt and acknowledgment forms and the qualifying contributions would have to be received by the deadline.
- Matching funds section, how seed money would be handled was inadvertently left out. No change, just originally not included.
- Travel reimbursement expense – how candidates reimburse themselves and how to keep track of these expenses.
- Gubernatorial MCEA candidates should be allowed to reserve a sum of money for auditing expenses for gubernatorial candidates. The staff proposes increasing the amount to \$2,000 for unsuccessful candidates for the primary election and \$3,500 for general election.

Alison Smith asked what other monies could be used for an audit if there were no reserve amounts. Ms. Gardiner stated that since it was a post election issue and would not influence the election, then monies raised or received would not be contributions towards elections and would not need to be reported.

Mr. Friedman made a motion to adopt the proposed amendment to the routine rule changes in Chapter 1, seconded by Ms. Ginn Marvin. The Commission voted unanimously (5-0) to adopt.

Mr. Friedman made a motion to adopt the amendments to the major rule changes in Chapter 3, seconded by Mr. Cassidy. The Commission voted unanimously (5-0) to adopt the staff recommended rule changes in Chapter 3.

OTHER BUSINESS

Mr. Wayne advised the Commission of the statute requiring the submission every four years of a report on how the MCEA is running. The draft report is ready for the Commission's review.

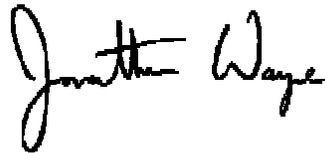
Positive affects of MCEA, explained in the report: In legislative races, helping caucuses recruit more candidates; fewer uncontested elections; new people are running as public candidates. Mr. Wayne pointed out that the report tries to portray the Commission as only administrator of the law, not cheerleader for the law.

Mr. Ketterer stated this was his last Commission meeting, after serving five years. He believes the Commission should remain as a quasi-judicial group, so rules are based on evidence not party affiliation. He also reminded the group of the statute, which states the Commission will be comprised of "no more than two people from the same political party."

Mr. Ketterer thanked his previous and present co-commissioners and expressed appreciation of the Commission staff.

There being no further business, the meeting adjourned at 10:25 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Jonathan Wayne". The signature is written in a cursive, flowing style.

Jonathan Wayne
Executive Director