

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

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BOARD MEMBERS:

James Albert, Chair
John Walsh, Vice Chair
Carole Tillotson
Jonathan Roos
Mary Rueter
Elaine Olson

REGULAR MEETING

Telephonic conference

May 14, 2020

JESSIE PARKER BUILDING

510 EAST 12TH, Ste 1A

DES MOINES, IA

I. CALL TO ORDER

Chairman Albert calls the meeting to order at 12:02 pm. Meeting was held by teleconference to comply with social distancing regulations due to the Covid 19 virus. Board members present, James Albert, Jon Roos from Polk City, John Walsh from Dubuque, Elaine Olson from Bettendorf, Carole Tillotson from Windsor Heights, Mary Reuter from DeWitt. Mike Marshall, Executive Director and Nancy Wood, Administrative Secretary were present from the IECDDB office. Members of the public were John (*inaudible*), Paula Dierenfeld, Nyemaster Law Firm, Dylon Keller, Iowa Senate Republican caucus, Mark Linder of the U of I Law School.

II. ELECTION OF OFFICER

Motion by Jonathon Roos to reelect James Albert as Chair and John Walsh as Vice Chair. 2nd by Carole Tillotson. All ayes, motion carries.

III. APPROVAL OF MINUTES

Motion by Mary Reuter to approve the November 19th and November 25th meeting minutes, 2nd by Elaine Olson. All ayes, motion carried.

IV. DIRECTOR'S UPDATE

Teleworking going well. Started in March and guessing we will continue teleworking through May and beginning in June with staggered schedules and appropriate distancing.

We hired a new staff attorney, Andrew Greenberg. An office was created in the file room and is now complete. Albert asked about Greenberg's qualifications. Marshall stated he is a U of I graduate, worked in private practice and joined Iowa Civil Rights (ICR) commission as an investigator. He was with ICR for 5 or 6 years. Has plenty of experience. Greenberg's experience with ICR gave him investigative experience.

Albert asked if auditors were working well at home and Marshall stated they were. We implemented phone messages to be sent to our emails which has been helpful.

V. LEGISLATIVE UPDATE

Not all were put into study bills by Senate, but all were put into study bills by the House. Met with chair to whom all the bills had been assigned. No interest in first 4.

1. Amend section 68A.405 to require attribution statement on mass phone calls and texts - ***seemed to be more of a federal candidate problem. Not so much with state. Asked us to continue to monitor***
2. Create new section to allow campaign funds to be used for dependent care expenses – ***the House last session had already voted against this as an amendment, so they didn't view it would be a good use of time again.***
3. Create new section to prohibit the use of certain government resources for political purposes – ***concerns with how it would relate to legislators and how they do their work within the capital itself.***
4. Amend sections 68A.503 to add LLCs, LLPs and cooperative associations to the list of prohibited contributors – ***did not have interest; in their view most LLCs are small businesses or farmers who have organized in that way. Adding them to that list requiring them to set up a PAC or restrict donations from them in that way would be far too onerous.***
5. Amend section 68A.103 and 68A.106 so sign statute applies to federal candidates – ***were interested.***
6. Amend section 68B.4 to include the sale or lease of real estate – ***were interested***
7. Amend section 68B.32 to allow Board to award additional pay to executive director who simultaneously serves as legal counsel – ***Mike recused and Cohl Bultje lobbied on this bill. Unfortunately they combined #5, #6 and #7. Just when the bill made it out of committee and on the debate list, apparently an amendment was proposed to it in the House that leadership viewed as poison pill. This bill was removed from the debate list. Then the pandemic hit. Cohl did not get any sense that the Senate was at all interested in number 7. Mike recommends next year we again propose 5 and 6. Maybe make some changes to our proposals to make them more palatable.***

We are still working on our budget for the next fiscal year. For obvious reasons, budgets are definitely up in the air. I don't think the General Assembly knows exactly what they are going to do for FY 21 budget and are probably waiting to see what revenues are going to look like.

Jonathon Roos commented about a brick wall in our efforts to # 3. I'd like if you or Andrew research what other states have on the books. Some new creative way while overcoming the objections of the legislatures.

Carole asked if we are thinking of Contingency plans with budgets. Marshall – 90% of budget is salaries. Last couple of months we were able to have a cushion due to not hiring the attorney until half way through the year. That cushion allowed us to purchase a new server and update all computers, with the exception of Nancy’s which was new a year ago. If there is a budget cut, not sure if the savings of not having to buy equipment would be enough to help with staff costs or avoid any issues with staff. Albert – we’ve pinched pennies and have gone a long way. The staff is a third of what it used to be and work has increased and we’ve kept up with it. Stretched every dollar and I believe the state recognizes that. Our budget is so small of all the agencies, hopefully the legislature and the governor’s office will see there is no fat here. We are doing 5 times more work than we did 23 years ago.

VI. REQUESTS FOR WAIVER OF CIVIL PENALTIES (RULE 351 IAC 4.60)

1. STATE COMMITTEES (Rule 351 IAC 4.59(3))
 1. Garrett for Statehouse (recommend reduction to \$25)
 2. Chet Culver Committee (recommend waiver)
2. COUNTY AND LOCAL COMMITTEES (Rule 351 IAC 4.59(2))
 1. Committee to Elect Kevin C. Brown (recommend waiver)
 2. Committee to Elect Dan Winn (recommend waiver)
 3. Grundy County Democratic Central Committee (recommend reduction to \$100)
 4. Harrison County Republican Central Committee (recommend waiver)
 5. Sac County Republican Central Committee (recommend reduction to \$25)
3. PERSONAL FINANCIAL DISCLOSURE FORMS (Rule 351 IAC 7.6)
Jim Kersten (recommend waiver for filing until July 31, 2020)

Motion by Mary Reuter and 2nd by Carole Tillotson to approve all the requests for waivers. No discussion. All ayes. Motion carries.

VII. PROPOSED BLANKET WAIVER UNTIL JULY 31, 2020 FOR PERSONAL FINANCIAL DISCLOSURE STATEMENTS

Motion by John Walsh to approve a blanket waiver until July 31st, 2020, to file the Personal Financial Disclosure Statements, 2nd by Olson. All ayes, motion carries.

VIII. ADJOURN TO CLOSED SESSION

Motion by Elaine Olson and seconded by Jonathon Roos to adjourn to closed session at 12:35 pm pursuant to the provisions of Iowa Code 21.5(1) “c” & “g”
All ayes by roll call vote. Motion carries.

IX. RETURN TO OPEN SESSION

Chairman Albert takes roll call at 1:31 pm - John Walsh, Carole Tillotson, Jon Roos, Mary Reuter, Elaine Olson, James Albert are present.

Albert - At this time, we discuss in open session what we discussed in closed session.

Concerning the Asian and Latino Coalition Committee. Jon Roos – moved to dismiss the petition for contested case proceeding regarding recognizing officers of the coalition and secondly that the board maintain a freeze of the ethics board filing account until there is a resolution of the dispute. Second by Elaine Olson. So moved.

Albert – for those listening in at this point, I will summarize the discussion of closed session and let any board member add what they want. We asked our legal counsel whether the board had jurisdiction to resolve this internal dispute among members and purported officers of this political committee. He told us we do not have jurisdiction. The discussion centered on the Board's role with respect to different political committees and that is to receive from them regular reports. Campaign finance disclosure, that's the heart of what we do. We give them credentials to access and enter this information. We discussed whether to freeze the account until such time when the courts decide or if the two groups will decide on a resolution. We do have jurisdiction to freeze the committee account. Is there any other discussion to dismiss this contested case and to freeze the filing account? All in favor. All ayes. So moved

We next turn to the complaint against Dr. James Brown. Elaine Olson recused herself. She had seen Dr. Brown for a medical appointment in the past and disconnected the call during the discussion.

With respect to the case against Dr. James Brown is there a motion.

Jon Roos – I would like to move that the board dismiss the complaint against Dr. Brown regarding the alleged violation Iowa code 68B.6 and also part of the same motion that the Board direct the staff review the Attorney General's 1982 opinion interpreting 68b.6 and determine if there is a need for the Ethics Board to revisit. 2nd by Mary Reuter.

Albert summarizes. First question to our legal counsel was what law governs here. He told us that it was the 1982 attorney general's opinion which had superseded and expressly overruled the 1978 ruling. The complainant was perfectly lawful. We noted in closed session that the state's ethics board has never issued an advisory opinion and never had a need to. Consensus emerged that we look at this issue with fresh eyes to see if there is any need to revisit that 1982 opinion. Regardless we will not apply anything retroactively and Dr. Brown relied on the law that applied at the time, with the 1982 opinion, and did nothing wrong. He also sought approval with his superior, who approved this testimony. The University of Iowa considered the matter after the fact and also determined there wasn't a conflict of interest. All those in favor – All ayes, motion carries unanimously. Elaine stated she did not vote for the record.

X. ADJOURNMENT

Motion by John Walsh, 2nd by Mary – so moved. Meeting adjourns at 1:45

Respectfully Submitted,

**Nancy Wood
Executive Secretary**

Approved 9/17/2020