

State of Wisconsin\Government Accountability Board

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JUDGE DAVID DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD
Room 150, Risser Justice Building
120 Martin Luther King, Jr. Blvd.
Madison, Wisconsin
February 25, 2008
9:30 a.m.

Open Meeting Minutes

| <u>Summary of Significant Actions Taken</u> | <u>Page</u> |
|---|-------------|
| A. Approved use of existing campaign finance, financial disclosure, and lobbying forfeiture schedules on an interim basis | 2 |
| B. Authorized staff to initiate proposed rule-making to adopt new proposed forfeiture schedules | 2 |
| C. Adopted proposed schedule for review of guidance, operating procedures, opinions, and rules of former boards | 2 |
| D. Reaffirmed opinions/guideline, and withdrew opinions regarding state officials' conflicts of interest | 2 |
| E. Reaffirmed ElBd Chapter 2 (election- related petitions) and two related Opinions | 3 |
| F. Declined to reaffirm Opinion El.Bd. 76-11 | 3 |

Present: Judge Thomas Cane, Judge David Deininger, Judge William Eich, Judge James Mohr, Judge Gerald Nichol

Absent: Judge Michael Brennan

Staff present: Kevin Kennedy, Jonathan Becker, George Dunst, Barbara Hansen, Sharrie Hauge, Bart Jacque, Kyle Richmond, Nat Robinson, Tommy Winkler

A. Call to order

Chairman Deininger called the meeting to order at 9:35 a.m.

B. Director's report of appropriate notice of meeting

The Director reported that the meeting had been properly noticed.

C. Approval of minutes of the previous meeting

MOTION: Approve minutes of the January 28, 2007 meeting of the GAB.

Moved by Nichol, seconded by Eich. Motion carried.

D. Public Comment

1. Paul Malischke appeared to comment on item H. 2, Recount, and item J, Elections Division report to the Board. Mr. Malischke provided written recommendations to the Board regarding elections administration.

Hearing no objection, the Chairman postponed the scheduled meeting break.

The following segments (Items E-H.1) were presented to the Board by Jonathan Becker

E. Ratify use of current forfeiture schedules on interim basis

MOTION: Approve use of existing campaign finance, financial disclosure, and lobbying schedules on an interim basis.

Moved by Eich, seconded by Nichol. Motion carried.

F. Initiate proposed rule-making to adopt new proposed forfeiture schedules

MOTION: Authorize staff to initiate proposed rule-making to adopt new proposed forfeiture schedules.

Moved by Eich, seconded by Cane. Motion carried.

G. Issue attached summaries of opinions

No action was taken by the Board. Board members reached consensus that in the future, once staff finishes summaries of opinions, those summaries should be sent to Board members for review.

H. Proposed schedule for review of guidance, operating procedures, opinions, and rules of former boards

MOTION: Adopt review schedule proposed by staff, giving the Director ability to alter it based on workload.

Moved by Eich, seconded by Nichol. Motion carried.

The Chairman called a recess for 10 minutes. The meeting reconvened at 11:57 a.m.

H. 1) State officials' conflicts of interest

MOTION: Reaffirm opinions and guideline pertaining to state officials' conflicts of interest and withdraw five opinions, as suggested by staff. Further, clearly identify the five withdrawn opinions as such for the public in future GAB documents and communications.

Moved by Eich, seconded by Cane. Motion carried.

H. 2) State officials representing clients before a state agency

The Board took no action. The Board reached consensus that the Ethics and Accountability Division Administrator should return to the Board with a memo analyzing the issue in greater detail.

The following segments (H.1 and H.2) were presented to the Board by Kevin Kennedy.

H. 1) Election-related petitions

MOTION: Reaffirm ElBd Chapter 2, Wis. Admin. Code, as a rule of the Government Accountability Board and change the chapter title to "Election-Related Petitions." Further, reaffirm two Elections Board formal opinions concerning election-related petitions, Opinion El.Bd. 76-08 and Opinion El.Bd. 86-2.
Moved by Cane, seconded by Eich. Motion carried.

H. 2) Recounts

MOTION: Decline to reaffirm Opinion El.Bd. 76-11.
Moved by Eich, seconded by Nichol. Motion carried.

The Board reached consensus that staff should revisit the remaining portion of this issue at the next Board meeting.

The Chairman called a recess for lunch. The meeting reconvened at 12:27 p.m.

I. Legal memorandum on Wisconsin Right to Life case

(Presented by George Dunst)

Discussion was held for informational purposes; the Board took no action.

J. Director's Report

Elections Division Update
(Nathaniel E. Robinson)

Report was made for informational purposes; the Board took no action. Judge Nichol expressed his commendations to the staff for the successful administration of the February 19, Spring Primary and Presidential Preference Vote.

Ethics and Accountability Division Update
(Presented by Jonathan Becker)

Report was made for informational purposes; the Board took no action.

Agency Administration and Legal Issues
(Presented by Kevin Kennedy)

The Board reached consensus that the Board Chair or a Board member designated by the Chair should certify official election results for the agency. The Chair noted that Judge Eich might be chosen to substitute for him for certification of the February 19 election results.

The Board reached consensus that items discussed in its closed session meetings should be disclosed in a non-specific manner in its open meeting minutes, including such items as:

- Requests for advice – how many requests considered and how many opinions issued
- Investigations – how many investigations opened and pending
- Litigation – how many cases considered
- Enforcement – how many complaints authorized for filing

The Chair called a 10 minute recess. The meeting reconvened at 2:00 p.m.

K. Move to Closed Session

MOTION: Move to closed session pursuant to Sections 5.05(6a), 19.85(g), (h), and 19.851 Wis. Stats. to consider written requests for advisory opinions, the investigation of possible violations of Wisconsin’s lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees, and to confer with counsel concerning strategy with respect to litigation in which the Board is, or is likely to become, involved. Moved by Eich, seconded by Cane.

| | | | | |
|-----------------|---------|-----|------------|-----|
| Roll call vote: | Cane: | Aye | Deininger: | Aye |
| | Eich: | Aye | Mohr: | Aye |
| | Nichol: | Aye | | |

Motion carried, 5-0.

The Board went into closed session at 2:02 p.m.

Summary of Significant Actions Taken in Closed Session Meeting

- A. Requests for Advice: Three items considered; no formal opinions issued.
- B. Investigations: Four items considered; one item closed, two items pending and one item referred to another body.

MOTION: Adjourn the meeting.
Moved by Eich, seconded by Cane. Motion carried.

The meeting was adjourned at 3:25 p.m..

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The next meeting of the Government Accountability Board is scheduled for 9:30 a.m., Wednesday, March 26, 2008, in Room 150 of the Risser Justice Center, 120 Martin Luther King Jr. Blvd., Madison, Wisconsin.

GAB minutes were prepared by:



Kyle R. Richmond, Public Information Officer

February 28, 2008

Date