

LNC Executive Committee Meeting

Teleconference June 21, 2000

Present: David Bergland, Chair
Hugh Butler, Vice Chair
Steve Givot, Secretary
Mark Tuniewicz, Treasurer
Joe Dehn

Staff: Steve Dasbach, National Director

Also present: Ken Bisson (IN), Region 3 Representative
Chris Spruyt (NC), Region 4 Representative

The meeting was called to order by Bergland at 9:30 PM EDT.

Item: Domain Name Status

Bergland said that based on feedback from Committee members, a resolution may be achieved if the cutoff date for limitations on LNC activities were changed to the end of 2000. He said that Jack Dean and his partner in Web Commanders have not responded to that proposed modification yet.

Dasbach suggested that the LNC meeting is near enough that starting the ICANN arbitration proceeding should probably be deferred until the LNC can consider this matter.

Givot agreed, saying that perhaps Bergland should inform Dean that the Executive Committee will be recommending instituting an ICANN arbitration if no acceptable settlement occurs prior to the LNC meeting.

Dasbach suggested that the Executive Committee might proceed by recommending to the LNC that either the Dean proposal be accepted or an ICANN arbitration proceeding be started.

Butler said that, in his opinion, a cease and desist letter would be the next step rather than an ICANN arbitration. He said that institution of an ICANN arbitration proceeding would be based on Web Commanders' response to such a letter.

Bergland said that providing the LNC with the facts, the status of the negotiations, and the alternative courses of action would be the best way to proceed.

Dehn said that although he personally thinks that Web Commanders should not be asking for more than its out-of-pocket expenses, that the Executive Committee was proceeding consistent with the direction provided by the LNC at its last meeting. He said that the negotiations to date had not led to a proposal which was consistent with that direction, because the compensation and entanglements in the current proposal exceeded what the LNC had considered acceptable. Therefore, he said, the Executive Committee should not accept the proposal.

Givot moved that the Executive Committee defers any action regarding Web Commanders' use of the party's name pending the June LNC meeting.

Dehn seconded.

Bergland said that the status of this matter could change between now and the next LNC meeting, depending on any response from Web Commanders. He said the status would be reported to the LNC meeting prior to the convention and be handled by the LNC. He said he would so inform Jack Dean.

The motion passed unanimously.

Item: Arizona Status

Bergland said that he is not happy about how things are proceeding in Arizona.

Bergland said that Dasbach had drafted a proposed settlement concept which Bergland forwarded to both parties. He said that the proposed settlement called for complying with state laws (ALP, Inc.'s concern) within the framework of the ALP (the LP's prior affiliate). The proposal called for dissolving ALP, Inc. The LNC would then recognize ALP as its affiliate once again.

Bergland said that Tim McDermott of ALP responded by saying that they were willing to accept the proposal if ALP, Inc. accepts it.

Bergland said that he had an extensive phone discussion with Peter Schmerl about the proposed settlement. He said that Peter Schmerl of ALP, Inc. did not like the proposed settlement, although he did not propose specific modifications which would make the proposal acceptable.

Bergland said that both ALP, Inc. and ALP had submitted a slate of electors to the AZ Secretary of State and that the Secretary of State has accepted the slate of electors provided by ALP. Bergland said he had asked Schmerl to prepare some specific

proposals for modifications to the settlement proposal and that Schmerl said he would do so. He said that Schmerl has not yet submitted any proposed modifications.

Dasbach read a summary of the proposed settlement for the disputes between ALP and ALP, Inc. (See attachment to these minutes.)

Dehn asked Bergland whether he felt that providing a copy of the proposed settlement agreement to a broader segment of ALP, Inc.'s leadership might be more likely to result in a positive conclusion.

Bergland said that he hesitates to speculate on that.

Tuniewicz asked Bergland whether he was optimistic about a settlement that would result in the LP's presidential nominee being on the ballot in AZ.

Bergland said that he has a degree of personal optimism that ALP will recognize that not placing the name of the LP's presidential nominee on the ballot in AZ does them little good. He said that he believes having that name on the ballot in AZ is clearly in jeopardy.

Dehn asked Bergland whether -- in discussing the settlement with Schmerl -- he had reminded Schmerl that the LNC had placed its faith and trust in ALP, Inc. in recognizing ALP, Inc. as the LP's affiliate.

Bergland said that this had been an element in the extensive discussion he had with Schmerl when Schmerl responded to the proposed settlement.

Item: New Mexico Delegation Status

Dasbach reported that issues involving the NM delegation have been resolved.

Dehn asked whether there is a pending problem relating to ballot access in NM.

Dasbach said that there is no pending matter which affects presidential ballot access.

Item: Ballot Drives

Dasbach said that the Illinois ballot drive is up to 57,000 signatures with 25,000 valid signatures required. He said that there is a rumor that the petition will be challenged.

Dasbach said that the CT ballot drive will require some help from the national party.

Dasbach said that he has not received any updates from PA. He said that LPPA has indicated that no national assistance will be required. He said that LPPA is doing an all-volunteer petition. He said that in the past, PA needed only money. He said that this year, since there is no paid drive, more than monetary assistance may be required in PA.

Dehn asked for the budgetary status of the ballot drives.

Dasbach said that as of the end of May, the party is over budget for ballot access. He said that budget for ballot access was \$100,000. He said that as of May 31, ballot access costs have been \$199,000 with targeted revenues of \$60,000. He said that at the beginning of May, net expenditures were within budget.

Dehn asked Dasbach if he has a projection for total ballot access costs.

Dasbach said that Crickenberger has been on the road much of the time and has not had an opportunity to create such a projection.

Bergland asked Dasbach for a reasonable speculation as to what the final, net ballot access cost will be.

Dasbach said that potentially another \$100,000 will have to be spent on ballot access. He said that the \$100,000 available in the contingency budget is enough for the short term, but probably not enough for the full year.

Dehn said that if 50-state ballot access is still a core goal, since we already know that expenditures will almost certainly consume all contingency funds and more, the budget should formally be amended to reflect this.

Tuniewicz moved to transfer \$90,000 from contingency to ballot access.

Bergland seconded.

Dehn said that money was spent on ballot access far in excess of budgetary authority. He said that this constitutes a violation of LNC policy. He said that Executive Committee approval is required to effectuate a transfer from contingency to ballot access.

The Committee members agreed that budgetary adjustments relating to ballot access will be on the agenda for the June 2000 LNC meeting because moving funds from contingency to ballot access would not adequately fund remain ballot access needs.

The motion passed unanimously.

Dehn asked Dasbach how much of the \$20,000 spent on ballot access in MA came from the ballot access budget line item.

Dasbach said that \$7,500 was erroneously booked to ballot access; the balance was booked to campaign support which is where it should have been booked.

Givot suggested that this error should be reversed in the May financial statements to more accurately reflect what had been done.

Dasbach said that he would ask Dunbar to do so.

Item: FECA/FEC litigation

Bergland described a telephonic meeting he attended with two attorneys who had advised the Browne campaign relating to potential litigation against the FECA and FEC by the Libertarian Party and possibly the presidential campaign challenging the entire regulatory framework on constitutional grounds.

Bergland said that it was felt that the litigation will have to be initiated immediately after the convention to have the desired effect. He said that he is awaiting additional materials from Jim Babka.

Tuniewicz asked Bergland whether he has sufficient information to make a recommendation about pursuing this matter.

Bergland said that, excluding the costs of the litigation, he believes that there is value in pursuing the litigation in terms of both potential publicity value as well as possibly getting the LP's presidential candidate into the debates. He said that there are people who are potentially willing to fund the litigation.

Givot asked Bergland to estimate the cost of the litigation.

Bergland said that it would probably cost between \$100,000 and \$150,000 to prosecute the lawsuit.

Bergland said that he believes that lawsuit is on solid ground. He said that the Buckley litigation -- in which a portion of FECA was found to be unconstitutional -- relied largely on congressional testimony and did not deal with 30 years of experience with the legislation in operation.

Tuniewicz asked when the Browne campaign can be expected to come to the LNC with a proposal.

Bergland said that he anticipates that the proposal would be brought to the post-convention LNC meeting.

Dehn said that he had advised Babka to circulate information about the proposal well prior to the post-convention LNC meeting.

Item: Convention Program Issues

Bergland introduced the topic by saying that he does not believe the Executive Committee has authority in this area, that it is within the scope of the Chair's authority.

Dasbach said that issues relating to a convention speech by Neil Randall are probably moot since he has not responded to an invitation to speak.

Dasbach said that three of the four presidential campaigns have been contacted soliciting input on who should be the banquet fundraiser as well as feedback on what sort of coordinated expenditures by the LP they would be interested in receiving. He said that four masters for contribution forms for the banquet have been prepared -- based on who gets the nomination.

Dasbach said that the Browne campaign would like Michael Cloud to do the fundraising. He said that the Gorman campaign would like Barbara Goushaw and Mark Tuniewicz to do the fundraising. He said that the Hollist campaign will be pleased with whatever the LP arranges.

Tuniewicz advised the Committee that he had had no contact with the Gorman campaign regarding this topic.

Tuniewicz said that he believes that having the fundraising pitch made by someone who is not closely affiliated with any presidential campaign would be preferable to maximize receipts. He said that he feels that Bergland's past communications on the subject may have constituted directing the National Director to make a certain choice, which is contrary to Bergland's expressed sentiment that the National Director should make the choice.

Bergland said that he had previously decided that Michael Cloud would do the banquet fundraising, but based on further discussion with the Director relating to

preferences of the presidential campaigns, he had decided to delegate the decision to the Director who was in the best position to make the decision.

Tuniewicz said that two officers had objected to Michael Cloud making the fundraising pitch.

Givot said that he had not objected to Cloud making the pitch, but rather had expressed concern as to whether the choice of Cloud might reduce the amount of money raised.

Item: Large Contribution

Tuniewicz said that he had an opportunity to discuss the matter with Bill Hall. He said that Hall had indicated that he finds no problem with the transaction.

Tuniewicz said that he has some concern about the facts on which Hall based his opinion, but that he sees no reason to pursue the matter further at this time.

Item: National Director's Response to Allegations by Jacob Hornberger

Dasbach said that he will come to the convention prepared with information that LNC members can use to respond to allegations that have been made.

The meeting was adjourned at 11:01 PM EDT.

PROPOSAL FOR SETTLEMENT IN ARIZONA

Tim and Peter:

Following is a draft framework for settling the existing disputes among Arizona libertarian activists. It is my hope that this framework will provide all the disputants with some of what they want and give all a motivation to support the final outcome. If adopted, it would also result in a functioning LP organization in Arizona that would be recognized by the LNC as the sole affiliate in Arizona. It would also mean that the presidential candidate nominated by the delegates to the upcoming national convention would appear on the Arizona ballot in November.

1. Conditioned upon the approval of the terms of the settlement described hereafter by the leadership of the ALP and the ALP, Inc., the ALP governing committee would call a special convention. Any member of either group, and any other person entitled under the current ALP Bylaws, could attend and vote at the convention. The sole purpose of the convention would be to vote on proposed bylaw changes that would implement the settlement the leadership had approved. There would be no other matters considered and no amendments would be allowed. The vote would be to approve, or not, the entire package. The terms of the settlement would not go into effect until and unless the convention votes to approve the package. [My understanding is that it would take a 2/3 vote of the ALP governing board to call the special convention and that the current bylaws limit what may be considered at the convention to what is stated in the resolution. Therefore, it appears that the proposed bylaw changes should be made part of the resolution setting the convention and part of any notice going out to members about the special convention.]

2. All pending lawsuits would be dismissed.

3. ALP, Inc., would be dissolved. Fees and legal expenses incurred by the individual incorporators would be reimbursed to them.

4. New ALP Bylaw provisions would include provisions that state, in substance:

a) The state committee would be given full authority and responsibility, in substance as well as form, in those areas specifically covered under state law. In all other areas, the governing committee and/or primary committee would have full authority and responsibility.

b) Procedures for resolving internal disputes by judicial committee, or ultimately, binding arbitration. Party leaders at all levels would be bound, as a condition of holding office, that they would not initiate litigation regarding any matter within the jurisdiction of the judicial committee or arbitrator.

c) All lists (e.g., voter registration, membership) would be shared by the state committee and the governing committee, both having full access to all lists.

d) Funds--sources and limitations on expenditures.

1) Tax checkoff funds would go to the state committee. Such funds could be used only for activities within its areas of statutory responsibility, but not to influence internal organizational matters.

2) Membership funds (e.g., dues) would go to the governing committee for use consistent with its responsibilities, but not to influence internal organizational matters.

3) Both the state committee and the governing committee would be allowed to raise funds, independently of the other committee.

5. Officers of the ALP and ALP, Inc., would agree that the presidential nominee named at the LP national convention will be placed on the ballot in Arizona for the November 2000 election.

Time is of the essence. If the status quo continues into the Anaheim convention, it is predictable that substantial negatives will result and that more litigation will ensue. [I will not be involved if it does, as I will no longer be Chair or on the LNC after the convention. But, my experience certainly makes it possible for me to make predictions in these circumstances.] It would be of great benefit to all concerned if the AZ disputants have taken some positive steps toward a resolution by the time of the convention.

I urge the leadership of ALP and ALP, Inc., to consider the foregoing proposal carefully and to come to some agreement, even if it does not precisely track with the above. Please call me if you want to discuss the matter, particularly if you believe I can be of any help in bringing these matters to a resolution.

David Bergland
Libertarian Party National Chair