



Massachusetts Liberty

Newsletter of the Libertarian Party of Massachusetts
On the Web at <http://www.lpmass.org>

July 2008

Call for Drivers

The Libertarian Party is looking for volunteers who are willing to do a little driving! We need to distribute nominating papers to all of the town halls and town clerks across Massachusetts. This paperwork must be filed **no later than July 29th**. George Phillies will have all the paperwork in Worcester after July 13th, and will be happy to give you instructions as to proper delivery. If you can pick up paperwork and distribute it to towns in your area, please give George a call at **(508) 754-1859**. Thanks in advance!

Secretary of State Switches Sides On Candidate Substitution

By: George Phillies, State Party Chair

Several months ago, armed with the assurance of the Secretary of the Commonwealth's Office that we could do substitution for our Presidential candidate, we started out petitioning process to put Bob Underwood and our Presidential candidate on the ballot.

We have persevered and have more than half the needed signatures, but the Massachusetts Secretary of the Commonwealth has changed his mind. First he said we could petition for a stand-in Presidential candidate. Now after petitioning is half done, has says that we may not. I have also contacted the National party and the ACLU. Considerations on litigation or other rational means of persuasion are ongoing.

Here is a written record of what transpired. Last Fall, I sent an email to the Elections Division of the Secretary's Office:

Dear Ms. Green,

Your office indicated that I should email you with the following questions related to next year's election.

First, I am chair of the Libertarian Party of Massachusetts, which at the present time is a Political Designation, not a Political Party. We expect to perform petitioning next year, to collect enough signatures on nominating papers to put our Party's Presidential candidate on the November General Election ballot.

What are the rules pertaining to candidate substitution? We expect to be able to collect signatures beginning in February, but our party convention is not until the Memorial Day weekend. We could collect signatures for a candidate, but if that candidate lost at our national convention, could we replace her on the nominating papers?

Second, still wearing my hat with the Libertarian Party, we would like to obtain an updated list of the registered voters in Massachusetts. When we were a political party, we asked and were presented with a CD disk. Is this still possible for political designations?

Third, changing hats, I am also a candidate for my party's Presidential nomination. As a candidate, I would like to obtain the list of registered voters for political purposes, namely targeted advertising. Is this possible through the Secretary of State's office?

Finally, your office explained why you were out, and I wish you all the best on what I hope will prove to be an extremely happy moment in every way.

I received this response on October 26, 2007:

Hi George,

I am writing to respond to a question that you previously posed to this Office regarding candidate substitution.

If the Libertarian Party seeks to substitute a candidate for President who they already got signatures for on nomination papers, our Office can prepare a form that allows members of the party to request the substitution of the candidate. All of the

electors who appear on the nomination papers will need to complete the form.

If this situation comes up, please contact our Office and we will work with you.

I hope this information is helpful. Please feel free to contact me with any further questions.

Kristen R. Green, Esq.
Attorney, Elections Division
Office of the Secretary of the Commonwealth

On May 29, immediately after the Denver National Convention, I sent the Secretary's Office the following update:

Dear Ms. Green,

We are currently collecting nominating papers for placing on the ballot a Libertarian Presidential candidate. We have stand-ins on the ballot. The actual candidates, who were not the same as the stand-ins, were chosen at the Libertarian Party national convention, held in Denver over Memorial Day weekend, May 23-26.

I had previously communicated with you about the substitution process for Presidential candidates. It was my understanding that substitution could be arranged, and that your office could generate an appropriate form for the substitution of our actual candidates for the stand-ins.

A core question is whose signatures and approval are needed to make the changes. The actual candidates are somewhat controversial, and I need to be sure that I have dotted every i and crossed every T to avoid later legal challenges to the change.

Cordially,
George Phillies

However, on June 5 we received a new policy:

George Phillies, Chair
Libertarian Party of Massachusetts State Committee

Dear Mr. Phillies:

I am writing to respond to your email of May 29, 2008 regarding the substitution process for Presidential candidates. You indicate in your email that the Libertarian Party of Massachusetts (which is a political designation and not a political party in Massachusetts; see G.L. c. 50 § 1) has been collecting signatures for a "stand-in" Presidential candidate and that this candidate was not chosen at the Libertarian Party National Convention held over Memorial Day weekend.

In September 2007, you inquired about candidate substitution and described a situation where the Libertarian Party of Massachusetts collected signatures for an actual candidate, but

that candidate lost at the national convention. Furthermore, you indicated that you were a candidate for your party's Presidential nomination and you sought the list of registered voters from our Office in accordance with General Laws chapter 51, section 47C (which limits access to the statewide list to statewide candidates). At that time, you did not indicate, as you do now, that those candidates were "stand-ins" and not actually seeking the party's nomination.

Our Office has previously taken the position that in certain rare circumstances, ballot substitution may be made so as to not burden the rights of independent and minor party candidates for president in obtaining ballot access. However, this Office has not applied a process which would obviate the statutory mechanism for a Presidential candidate of a political designation to seek ballot access when this mechanism remains available. Moreover, this Office has not interpreted the election laws to authorize the use of placeholder names or stand-in candidates. In 2000, our Office found a unique set of circumstances to exist where the Reform Party obtained ballot access for president and vice-president by the submission of certified signatures and then the party nominated a different individual for vice-president at its national convention. The National Convention where the party elected an alternate candidate took place in August, which was within weeks of the filing deadline with our Office, but well after the deadline for submitting nomination papers to local election officials for certification. In that situation, it was not possible for the Reform Party to obtain the requisite signatures for the new candidate.

However, in the present case, it is the opinion of this Office that the circumstances described do not warrant candidate substitution. The deadline for submitting nomination papers to the Registrars of Voters for certification of signatures is not until July 29, 2008. The same individuals who signed the previous nomination papers are able to sign the papers for the newly nominated candidates. Accordingly, the party has almost 2 months to obtain the requisite number of signatures and comply with the statutory requirements to obtain ballot access.

Furthermore, the situation that is presently being described where the party used "stand-ins" is different from the situation portrayed to our Office in September of 2007.

Based on the foregoing, it is the recommendation of our Office that the Libertarian Party of Massachusetts obtain signatures on nomination papers for the newly nominated candidates by the deadline instead of continuing to get signatures on nomination papers with candidates who are not the party's nominees. The party should reprint and recirculate new nomination papers with the correct candidates.

Please feel free to contact our Office with questions regarding this matter.

Very truly yours,
Kristen R. Green
Attorney, Elections Division

I replied the same day:

Dear Kristen,

Thank you for your rapid response on my inquiry about candidate substitution. I continue to look forward to the possibility that someday I will be in Boston and be able to ask to see the baby pictures.

Before we advance farther, something I wrote to you led you to a reasonable factual inference that was not correct. I realize that Libertarian campaigns (not to mention our convention) are not something that most people hear or read about, so I certainly do not blame you for your conclusion.

You write:

"In September 2007, you inquired about candidate substitution and described a situation where the Libertarian Party of Massachusetts collected signatures for an actual candidate, but that candidate lost at the national convention. Furthermore, you indicated that you were a candidate for your party's Presidential nomination and you sought the list of registered voters from our Office in accordance with General Laws chapter 51, section 47C (which limits access to the statewide list to statewide candidates). At that time, you did not indicate, as you do now, that those candidates were "stand-ins" and not actually seeking the party's nomination."

Your original understanding "you [meaning me] were a candidate for your party's Presidential nomination" was entirely correct. I was a candidate for our party's nomination. I was filed with the FEC, I campaigned vigorously, spent a large amount of money by my party's standards, and finished fifth in the convention balloting.

I did, however, agree that, if I lost, I had agreed to stand down and be replaced by the winner of our convention vote. I was standing in place of the nominee, but your inference that I was "not actually seeking the party's nomination" is incorrect.

I believe we have acted in good faith on the basis of your office's prior findings, that your new position reflects a correctable error of fact, and therefore that you should remain with your prior position.

I will call this afternoon if I do not hear from you.

Cordially,
George Phillis

The response:

Dear George,

Please be advised that while your June 5, 2008 email speaks to the background of the letter, the opinion contained therein remains unchanged.

Know Your Rights

Mass. General Laws, ch. 265, section 37

No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the commonwealth or by the constitution or laws of the United States. Any person convicted of violating this provision shall be fined not more than one thousand dollars or imprisoned not more than one year or both; and if bodily injury results, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than ten years, or both.

Libertarian candidate for U.S. Senate finishes ballot access drive

Redpath says Virginians do not need "six more years of the same two parties"

Libertarian Party National Chairman and candidate for U.S. Senate William Redpath will deliver more than 16,000 signatures to the Virginia State Board of Elections on Tuesday in Richmond, concluding more than two months of petition gathering to qualify for ballot access as a Libertarian in the state of Virginia. Redpath, of Leesburg, will face Republican Jim Gilmore and Democrat Mark Warner for the seat currently held by five-term Republican Senator John Warner.

"This will be an open seat, and one that is highly contested," says Redpath, who is a Vice President at BIA Financial Network, Inc. "My entry into the race will bring more competition by creating an alternative to the two establishment candidates. Virginians deserve to get the best representation as possible in Washington, and we do this by inviting more choices into the selection process."

Redpath plans to focus the next 21 weeks of his campaign on many issues that impact the citizens of Virginia, including: promptly withdrawing US troops from Iraq; reductions in federal government expenditures by cutting wasteful government programs; reforming the tax code with a simplified, flat tax; reforming the Social Security and Medicare systems with Libertarian alternatives; and ending federal prosecution of citizens for nonviolent, consensual crimes.

Minutes of the May State Committee Regular Meeting

May 29, 2008

Home of George Phillies, Worcester

[Editor's note: these minutes have been edited. Full minutes may be found at <http://lpmass.org/publicbb2/>.]

Call to Order

The meeting came to order at 7:30 PM. Present were committee members David Blau, Carol McMahan, George Phillies, Art Torrey, Bob Underwood, Mary-Ann Wolf, and Walter Ziobro.

The agenda was approved with additions as seen below.

Officer reports

Treasurer: Walter Ziobro tendered his resignation from the state committee, conditioned on our finding a replacement for him as treasurer.

The Federal accounts have \$7,368.00. The state account has \$128.00. Of the amounts deposited, at least 2142 Federal dollars and 100 state dollars were for ballot access. Since January 1 the Federal account has received \$2,683.00 and has expended \$2,347.00, for a net gain and of \$337.00.

Political facilitator: Member Steve Greffenius is running for school board. He would like to have help, perhaps including petitioning, door to door contact, signs, state filing, and so forth. Carol McMahan will coordinate this.

We have a booth at the Boston Pride Festival. George Phillies' campaign paid for it. We are sharing the booth with Outright Libertarians. The notion of using the booth for ballot petitioning appears to be inoperative. The event is Saturday, June 14, from noon to six on City Hall Plaza in Boston. Volunteers include Carol and friend, George, Art, Dave, and others. We will have literature stressing the positive support of the libertarian movement on GLBTQPL issues, general literature such as ISIL brochures, and literature plugging our party. Phillies has a new Xerox Phaser that does color printing really cheaply for brochures.

Operations facilitator: So soon as a list of expired and expiring members is sent, he will start sending out renewal notices. We need to renew the mail arrangements with Steve Drobnis. We appropriated \$100.00 for renewal, and \$150.00 for mail forwarding. It was agreed that mail forwarding costs, especially if we are mailing to a new mailing list with many bad addresses, are extremely high. We will gradually migrate our mailing address to a new post office box in Worcester, which is up about as centrally located as you can get for most people. Phillies was tasked with procuring a mailbox in the Worcester main post office, which will be accessible at all times.

Webmistress: Updated bylaws have been posted. The volunteer form from national was uncooperative so a new form based on a documented perl script has been installed and is up and running. State committee members are asked to look carefully at the volunteer form. Volunteer data will be sent to Carol and George. There are now 43 forum members. The message from the state chair on the national convention was sent to both to the forum and placed on the homepage. A positive message in support of a special state convention was received.

Membership Secretary: Phillies reported that we have 85 continuing members, 8 renewals, and about a dozen life members. He is still working on the life member question. In the next few months, only three memberships will renew.

Newsletter: The newsletter has been delayed by computer failures. It will be out soon. The Editor is asking for letters about the National Convention and what happened there.

Discussion of the National Convention in Denver

The Chair reported on region formation and on the presidential and vice presidential nominees. Several Committee members made statements for the record. Recommendations of Treasurer Ziobro relating to the national convention were discussed and acted upon.

Region formation: Under the national bylaws, states may freely and voluntarily group themselves into regions. Each region is entitled to one regional representative on the National Committee for every 10% of the total membership it contains (rounded down).

In mid-April, the Massachusetts Party Chair contacted the other state chairs in New England, New York, and New Jersey, proposing arrangements. After a month, there had been no responses. Noting that OR, WA, and ID had severed from the CA region, and that local State Chairs were not interested in talking about region formation, the State Committee advised the Chair that it was interested in a region including New England if it also included the western states.

We now advance to the National Convention. New England, NJ, NY and WV tentatively formed a region. We were invited to join, but we declined for several reasons: we had a small delegation on-scene, it appeared the deal had already been made, and the new region had sufficient people that we had no leverage (those states already had 10% of the overall membership). Additionally, several likely Regional Representatives from those states were felt to be inauspicious choices by the on-scene State Committee members familiar with the background. The present State Committee members instructed the chair that we could join a region, but the region (i) could not be simply the old NE, NJ, NY states, and (ii) could not include Texas.

Negotiations with OR and WA were somewhat complex. At one point OR was incorrectly led to believe, or so we were told, that we had joined the New England Region, so we drifted out of contact. The southeast states had a double region with two elected Regional Reps, Flood and Barr, but Florida withdrew prior to the date set for forming regions, leaving the double region with one allowed regional rep. Florida joined with OR, WA, ID, and HI to form a new region 7.

We were then told (i) WV joined a different region so NE, NY NJ needed us, and then separately (ii) New England and points south formed a double region, so we were not needed, but were invited to join. The two Mass. delegates then on the floor stepped out to find the other state committee members on scene to seek a decision. As soon as they left, the New England delegates were incorrectly told that we had rejected their proposal; they promptly elected a regional representative. At this point Phillies emphatically declined further invitations to join that region.

The final outcome of these maneuvers is that we are not a part of any region for the next two years. The Chair was asked if he wanted to be elected Regional Alternate for the new Region 7, in which he does not live; he said he was available but that takers in that region should be preferred, and one was chosen.

We are therefore a free and independent state, not subservient to any region. While we do not have our own regional representative on the LNC, history does not suggest that this is a loss.

Presidential and Vice Presidential candidates: our nationally nominated candidates are Bob Barr, who is a Washington lobbyist and political fundraiser, and Wayne Allyn Root, who is a Las Vegas businessman.

Elector candidates who were present were asked if they were withdrawing their support for the national candidates. None withdrew. We will confirm with other electors that they are not withdrawing.

Torrey will not cast a vote for Bob Barr for President. Ziobro noted that electors are required to pledge to support party candidate listed on the nominating papers. However, if the candidate is replaced, there is no legal enforceability against the electors.

Wolf and Phillies discussed substitution of candidates. Phillies is waiting for paperwork that the Secretary of the Commonwealth's office has promised on how to make substitution. [Editor's Note: see the emails in the cover article.]

Phillies reported that LNC member Dan Karlan forwarded to him a threat by another LNC member to sue the LPMass State Committee if we do not place Barr on the ballot. Phillies noted that we have yet to find out who makes the substitution, and because this committee is a "political designation" in Mass. election law, it is likely the electors, not us, who make the substitution. There have been threats to disaffiliate Massachusetts from Libertarian National Committee, Inc. if we do not make the substitution.

There could be several Presidential candidates on the ballot, each identified as "Libertarian", if several candidates collect enough signatures. There is a trademark on "Libertarian Party", but that phrase would not be used on ballots.

Wolf read five options the LPMA could take. The options she noted were:

- 1) Gather enough signatures to put some presidential candidate onto the ballot, and then hold a special state convention to decide which candidate to substitute. We may not have the money for this.
- 2) There are several people gathering signatures. If they do not gather signatures, then perhaps nobody gets onto the ballot. We then expend our time, and any money that is left, trying to get the income tax repealed. This option is Wolf's preference.
- 3) Barr has backed off to some extent on most of the positions people object to. If we decide that we believe him, we could try to convince him to back off on the Pagan position as well, and make our decision after giving him a chance to do this.
- 4) Ziobro proposes we should bite our tongues and support Barr even if he is not the candidate we would have preferred. Ziobro proposes a convention to pass resolutions, but not to change who we put onto the ballot.
- 5) Re-affiliate our state party with an organization other than LP National. It would be helpful to see whether other state parties are considering the same option. Wolf has not heard anyone advocate this option.

Questions dealing with fundraising for ballot access were discussed. Motion (Torrey): to discuss whether we should ask our donors if they want their money back. Some donors may want their money back, because they thought they were donating to help put a true libertarian on the ballot. We did not then know who the nominee would be. Perhaps donors should be asked to redirect their funds for party building. Are we morally obligated to offer refunds?

Ziobro asked if we should be active or passive with refunds. Should we wait for someone to ask, or should we ask them if they want money returned? Blau suggested that the question was premature, because we do not know yet who will be on the ballot. It was proposed that we have a reasonable contract with National to try to go ahead with ballot access. If we actively reduce our resources, we are not honoring our commitment. Ziobro proposed returning money out of general funds, leaving the ballot access money in place. Returning money to donors would cost us potentially \$2000 or so. Committee agreed to return to this issue.

There was agreement that we will need to notify National promptly about our money situation.

Discussion of Special Convention

Torrey outlined several reasons why Mr. Barr should not be placed on the Massachusetts ballot.

1. Donations to Republicans with Libertarian opponents, while sitting as LNC member. Donation recipients backed causes that Barr claims to oppose.
2. Giving interviews and authoring articles since joining the LP, indicating ongoing support for the War on some drugs, and foreign interventions.
3. DOMA, Don't Ask-Don't Tell and the GBLT issue.
4. Attacking Pagans in military service: he never apologized for the attack, and gave no assurance he won't continue it as Commander-in-Chief.
5. Possible racism indicated by his statements to the Council Of Conservative Citizens.
6. Questionable personal ethics in terms of marital behavior, alleged encouragement and payment for 2nd wife's abortion while preaching anti-choice stance.
7. Protectionist record as identified by The Cato Institute.
8. The Genarlow Wilson affair.
9. Concerns about his 2nd Amendment stance.

Wolf expressed concern that if we did not place Barr on the ballot we would be going out on a limb. There were reports that New Hampshire is also having a special state convention. Wolf offered to contact LPNH State Committee members to determine whether acting together with other states would place us in a stronger position.

Phillies made a statement for the record. [Editor's Note: his statement may be found in the public area of the web forum.] Phillies noted that there was no option leading to Barr not being on the ballot, no matter what state party members told us the State Committee to do, because National could always find a fresh slate of electors and petition. The only question is whether the money spent thus far would go to waste.

It was proposed that we have a special state convention to pass resolutions advising the national ticket, or to pass resolutions of censure against Barr supporters. Under our Bylaws, the question of placing Barr on the ballot could be irrevocably excluded from the state convention agenda. A proposed agenda might include: Resolutions of advice or censure. Non-bind-

ing recommendations to state libertarians. Instruction to state committee to re-consider affiliating with LNC., Inc.

A Special State Convention is reasonably expected to break even on cost, if held in a commercial location. There was general discussion about the threat from the LNC member to sue us. There was discussion about Barr's personal record.

Phillies polled committee members about holding a special state convention. There were more people undecided than in favor or opposed. Phillies could contact other people having reservations. A special state convention here could trigger other state parties to take action. After some further discussion, Phillies proposed to hold a Summer Social at his home on June 15 at 2PM, open to all state party members, to discuss what LPMass should do.

The issue of people who want to subscribe and cannot give us money was discussed. It was proposed that entities who cannot legally give LPMass money should be given free electronic subscriptions to our newsletter.

Mindful of the above discussion, the State Committee agreed that it will not ask ballot access donors if they want their money back, but that it will return donations if donors ask.

There was discussion of where we put our money. There appeared to be agreement that we should henceforth focus on putting money into our OCPF account, not into our Federal account.

The meeting adjourned.

July Libertarian Events

July 9, 6:30 PM (2nd Wednesday): Pioneer Valley Libertarian Association. Meet other Libertarians at the Hu Ke Lau Restaurant, Memorial Drive in Chicopee.

July 13, 6:00 PM (2nd Sunday): Boston Area Libertarian Meetup. Food and political conversation. Sign up at <http://libertarian.meetup.com/349/>.

July 22, 8:00 PM (4th Tuesday): Lowell Area Liberty Association. Outback Steakhouse, 28 Reiss Ave., Lowell. RSVP: Arthur Torrey, (978) 663-0241. You must RSVP for this meeting.

July 29, 6:00 PM (last Tuesday): Worcester County Libertarian Association. Starbucks Coffee, intersection of Grove St. and West Boylston, look for the Curry College sign.

Libertarian Meetups

We have Libertarian Meetups, visible at meetup.com, including groups in Boston, Lowell, and Springfield.

Take a look. See what you like! Please come by; we'd love to see you.

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