

LNC Executive Committee Meeting

Teleconference August 15, 2000

Present: Jim Lark, Chair
Dan Fylstra, Vice-Chair
Mark Tuniewicz, Treasurer
Steve Givot, Secretary
Ken Bisson (IN), At Large Representative
Joe Dehn (CA), Region 2 Representative
Michael "MG" Gilson de Lemos (FL), Region 4 Representative

Also present: Lorenzo Gaztanaga (MD), At Large Representative
Elias Israel (MA), At Large Representative
Lois Kaneshiki (PA), At Large Representative
Mike Dixon (IL), Region 1 Representative
Mark Nelson (IA), Region 1 Alternate
Scott Lieberman (CA), Region 2 Representative
Dan Wisnosky (NV), Region 2 Alternate
Sara Chambers (IN), Region 3 Representative
Mary Ruwart (TX) - Region 7 Alternate

Staff: Steve Dasbach, National Director
Bill Hall, General Counsel

Lark called the meeting to order at 8:35 PM EDT.

Item: Approval of Agenda

Lark proposed allowing Givot ten minutes for his introductory remarks.

Givot asked whether the 527 issue would be added to the agenda.

Lark said that he felt the agenda was full before adding that issue. He said that Dunbar had distributed a memo on that subject.

Tuniewicz suggested that 527 be placed on the agenda for the next EC meeting.

Lieberman asked whether non-EC members would be able to participate in discussion.

Lark said that he preferred that they not do so. He supported the procedure that Dehn had suggested by email - an email exchange immediately after the meeting.

The agenda was adopted with the changes proposed by Lark.

Item: Chair's Comments

Lark thanked all the people who have been working to find a resolution to problems in AZ.

He reminded the Committee that the LNC is meeting the next day.

Dehn asked if anyone has determined whether all LNC members are aware of the meeting.

In response to a question from Givot, it was determined that all people attending this meeting plan to attend the next day's LNC meeting.

Item: National Director's Report:

Dasbach reported that the LNC is continuing to purchase ads, but the Browne campaign will be taking over ad purchasing for the coming weeks.

Dasbach said that he is making site visits to possible convention sites for 2002 and 2004. He said that he is currently in St. Louis and plans to visit Atlanta soon.

Dasbach said that all drives are complete except ND (50% complete), RI, and AZ (14,000 signatures gathered).

Lark reported that the VA drive continues to assure that the distribution requirement is met.

Tuniewicz asked Dasbach to report on the total ad spending by the LNC and the Browne campaign. He said that the Browne campaign has spent about \$17,000 to \$20,000 thus far and that the LNC has spent about \$130,000 thus far.

MG asked whether the two organizations were paying for alternating batches.

Dasbach said that it is not that clearly structured.

Dehn asked whether the LNC was holding back on ad spending because it is the Browne campaign's turn or because of lack of money.

Dasbach said that funds are currently needed to pay the final hotel bill for the convention as well as the AZ ballot drive which will cost more than anticipated.

Givot asked whether the final hotel bill has been received.

Dasbach said that it had and is about \$100,000.

Givot asked whether the final financial result for the convention is known.

Dasbach said that he is still waiting for information from Balcom Group, but that he expects the result will be a loss of \$30,000.

Chambers asked whether the 527 group issue will be discussed this evening.

Dasbach said that it would be discussed at the following EC meeting. He said that he expects that many Democratic and Republican committees are in violation of the regulations.

Fylstra asked about preparations being made for the lawsuit to accompany the AZ petition.

Dasbach said that this work is being done and that the filing will be ready at the time the AZ Secretary of State, as expected, rejects the AZ petition.

Item: Arizona Situation

Givot reported that ALP has responded to his efforts with a proposal which calls for both parties to linedaw from all pending lawsuits and for binding arbitration to determine which group shall be recognized by both the LNC and AZ as the LP in AZ.

He said that ALP Inc. responded last week and that their counterproposal was in form of the agreement developed in Anaheim.

Givot said that the case before AZ Supreme Court is very limited in scope - dealing only with who has the authority to file a slate of presidential electors with the state. He expressed fear that even if the ruling in this case favors ALP Inc., it would not address the question of who provides the name of the presidential candidate to appear on the ballot.

Fylstra reported his sense of ALP Inc's. position based on conversations with Peter Schmerl.

Fylstra asked Givot whether ALP really understands ALP Inc's. position and LNC's position.

Givot said that he believes that ALP understands both.

Dasbach asked Givot whether either side commented on what it believes is the in the interests of its members.

Givot said that each side appears to believe that it is doing what is in the best interest of its own members.

Dasbach asked Givot whether each side has asked its members what they want.

Givot said that, to the best of his knowledge, neither side has done so.

Dehn said that Peter Schmerl thinks this way of organizing is a better way to grow the party. He said that Schmerl says that he does not want endless litigation.

Fylstra said that he asked in Anaheim Liz Brandenburg-Andreasen how she feels about what ALP members want. He said that her response was that ALP wants to get back to looking out for its members, but this is dispute is distracting them from doing so.

Lark said that a year ago Schmerl advised him that he favors the state's method of organization for practical means, not because he believes the state should dictate such matters.

Lark asked Givot if there was any proposal in writing from ALP Inc.

Givot said that he had received none.

Fylstra said that there was an email from Peter Schmerl outlining some concepts.

Givot outlined alternative steps that the LNC might consider taking. He listed, without endorsing a course of action:

1. Responding to both sides
2. Responding "with muscle" to encourage greater flexibility
3. Preemptive disaffiliation

Fylstra said that the LNC should respond. He questioned the advisability of responding with muscle. He said that he is worried that the upcoming AZ Supreme Court decision will not be black and white. He asked what would happen if ALP is silent on who the presidential candidate is. He said that this might be attractive if ALP is agreeable.

Dasbach said that the most important issue is not whether ALP puts Browne on the ballot. He said that the most important issue is having one group in charge. He said that if it turns out that the way to get agreement does not result in Browne's name appearing on the ballot, but does solve long term problem, we should go for the long-term solution.

Bisson agreed with Dasbach.

Fylstra said that he is not opposed to "responding with muscle" to send the message that we want this problem resolved. He said that although muscle could be used against ALP for the use of the name Libertarian Party, he does not recommend such action.

MG said that he is confused. He said that Peter Schmerl sent him a copy of a letter to Lark He said that the letter was substantive.

Dasbach spoke about the possibility of disaffiliation in advance depending on the outcome of the AZ supreme court action. He asked what would happen if the AZ Supreme Court refuses to hear ALP Inc's. special action.

Bisson asked what would happen if we disaffiliate ALP Inc., and ALP refused to reaffiliate and list Browne as its presidential candidate.

Givot said that this would be inconsistent with their past stated desires and settlement offers.

Tuniewicz said that an agreement that subjects both sides to binding arbitration is the best course of action. He said that at the next LNC meeting, he will support adoption of a resolution endorsing that approach.

Givot said that the draft arbitration agreement is brilliant in that it does not specify any basis for deciding how the arbitrators will decide which group is both the LNC affiliate and recognized by the State of AZ.

Dasbach asked if ALP's signing such an agreement it is contingent on linedawal of the special action which ALP Inc. has brought before the AZ Supreme Court.

Givot said that it is contingent on linedawal of all pending litigation, with no exceptions.

Dasbach suggested that it may be possible to reach a settlement calling for linedawal of all litigation pending on September 1, 2000.

Givot said that may be a better way to expressed ALP Inc.'s proposal.

Dasbach asked Givot if he would attempt to pursue that approach.

Givot said that he would do so at the conclusion of the meeting.

Tuniewicz asked whether it is likely that ALP will accept such a proposal.

Givot said that it was not at all likely.

Bisson suggested a straw poll among those attending the meeting about the advisability of using muscle at this time.

Givot said that might be helpful to either set direction or limit discussion. However, he said the first the nature of the "muscle" to be employed would have to be defined.

Fylstra suggested that LNC should draft a combined agreement. He said that he would suggest that this agreement would be based on ALP's proposed binding arbitration agreement, excepting the pending AZ Supreme Court special action from the requirement that all pending matters be linedawn, and specifying that its outcome is irrelevant to the arbitration case deciding which group would be LNC's affiliate and recognized by the state. He said that it should also provide that there will be no appeal of the special action before the AZ Supreme Court. He said that it is in LNC's interest to get the major issue - having one group in AZ - resolved.

Givot proposed adding this exception to both proposals.

Lark asked Givot what happens if ALP Inc. wins before the AZ Supreme Court on both the issue of who determines the name of the presidential electors and presidential candidate who appears on the ballot.

Givot said that the two factions will fighting in court if that happens. He said that the results of the AZ Supreme Court special action will not change the feuding.

Dehn said that Meyers decision is not so clear as to state that ALP is the party for all time. He said that it states that these people in office now are the party for this purpose. He said that the same court decision requires that ALP changes its ByLaws to accommodate the statutory scheme. He said that if they have not complied, they may no longer be in charge. He said that the decision gave ALP access to old versions of registration records.

Dehn said that the new decision will deal with the role of the party organization. He said that if the AZ Supreme Court comes down on the side of ALP Inc, that the rest of the courts may look to that ruling in the future.

Fylstra said that in the state's dealings with the Arizona Libertarian Party with regard to ballot access, it is clear that they must requalify every election cycle. He said that current ballot status will go away after the election because they Libertarian Party registrations in AZ have fallen below the threshold required to keep ballot status. He said that depending on the governor's race in 2002 and intervening registration changes, there may or may not be ballot status in 2004. He said that this will depend on registration status and what the activists do to maintain it.

Gaztanaga thanked the committee for good information and said that he had to leave the meeting.

Tuniewicz said that Fylstra's proposal is a good idea with the exception that the proposed arbitration agreement should include linedawing the special action now before the AZ Supreme Court.

Givot said that this would leave ALP's binding arbitration. He said that this is a non-starter because ALP Inc has already rejected it. He said that this single obstacle appears to stand in the way of reaching agreement.

Fylstra said that we should sign on to all three versions. He said that this gets Browne on the ballot regardless. He said that It takes away the results of what decision the AZ Supreme Court makes. He said that this would then call for binding arbitration on who the party is for all purposes.

Dehn we have a better chance if we put together the things that both sides consider most important.

Dasbach said that Schmerl believes that if the AZ Supreme Court rules in his favor, that it will influence the arbitrators.

Dasbach suggested a revised offer. He said that this offer would state that if ALP Inc. loses its case before the AZ Supreme Court, then ALP would be recognized by the state and by the LNC as its affiliate. He said that, otherwise, the matter would go to binding arbitration.

MG said that ALP is concerned about having a "moral relationship" with the LNC.

Bisson moved that the Executive Committee recommends to the LNC that it advise both parties that:

1) The LNC supports in substance, and would join in, ALP's revised proposal received on Friday August 11, 2000 calling for the linedawal of all pending litigation and binding arbitration of any pending legal matters and submitting any future disputes to binding arbitration as proposed, if the proposal is supported by ALP and ALP Inc.

2) The LNC supports in substance, and would join in, ALP Inc.'s proposal to modify ALP's proposal to exclude from linedawal the pending action before the Arizona Supreme Court, as long as ALP Inc.'s proposal is modified to preclude ALP, Inc. from appealing the results of that action in any forum other than binding arbitration, if the proposal is supported by ALP and ALP Inc.

3) The LNC recommends the following proposal to both parties: adopting ALP Inc.'s proposal, modified to preclude any appeal of the results of the Arizona Supreme Court action in any forum other than binding arbitration, and adding two provisos:

(A) should the Arizona Supreme Court rule that ALP Inc. does not have the right to name presidential electors on the November 2000 ballot, that ALP Inc. agrees to resign as the LNC's Arizona affiliate, LNC agrees to accept ALP's affiliate application submitted in 1999, and ALP agrees to become the LNC's Arizona affiliate.

and

(B) in the future, if either side brings an action in government court instead of binding arbitration under this agreement, the following is agreed to:

(i) The party initiating the lawsuit shall immediately pay \$10,000 to the LNC.

(ii) The LNC shall undertake the defense against the legal action..

(iii) If the side initiating the action in government court is an LNC affiliate, initiating the legal action shall constitute cause for disaffiliation.

4) The amount of money the LNC proposed to provide to ALP and ALP, Inc. is \$5,000 each under each of these three proposals.

Tuniewicz seconded.

Bisson said that he was making this motion to put this proposal on the record for the parties to comment on.

Fylstra said that he supports the motion as the best way to demonstrate to both sides that the LNC is committed to developing a long-term solution.

Dehn said that this is very complicated and he wants to make sure that he fully understands it.

Tuniewicz urged the Executive Committee to pass what is before it with the understanding that if any of these are acceptable to both sides, the details will likely be changed to some extent.

MG asked whether, after the November 2000 election, the ballot access issue disappears.

Dasbach said that it will not, because a supplemental registration drive would need to be done to cure any shortage of registrations in time for the 2002 election.

After considerable discussion about the merits of the proposal, the Committee moved to a vote.

The motion passed 7-0.

The Chair directed the Secretary to distribute the motion to the full LNC and the chairs of both ALP and ALP, Inc.

MG moved that the Executive Committee expresses its appreciation to ALP and ALP Inc. for their participation in attempting to seek a settlement to these issues in recent weeks.

Givot seconded.

The motion passed without objection.

The Committee agreed to hold its next meeting on Tuesday, August 29, 2000 at 8:30 EDT.

The meeting was adjourned at 11:34 PM EDT.