

# LNC Meeting

## Teleconference August 16, 2000

Present: Jim Lark, Chair

Dan Fylstra, Vice-Chair

Mark Tuniewicz, Treasurer

Steve Givot, Secretary

Ken Bisson (IN), At Large Representative

Lorenzo Gaztanaga (MD), At Large Representative

Elias Israel (MA), At Large Representative

Lois Kaneshiki (PA), At Large Representative

Mike Dixon (IL), Region 1 Representative

Ed Hoch (AK), Region 1 Representative

Mark Nelson (IA), Region 1 Alternate

Joe Dehn (CA), Region 2 Representative

Scott Lieberman (CA), Region 2 Representative

Dan Wisnosky (NV), Region 2 Alternate

Sara Chambers (IN), Region 3 Representative

Michael "MG" Gilson de Lemos (FL), Region 4 Representative

Ken Lindell (ME) - Region 6 Representative

Deryl Martin (TN) - Region 7 Representative (joined the meeting during AZ discussion)

Absent: Jim Turney, At Large Representative

Jim Dexter (UT), Region 1 Alternate

Tim Hagan (NV), Region 2 Alternate

Barbara Goushaw (MI) - Region 3 Alternate

Ben Scherrey (GA), Region 4 Alternate

Richard Schwarz (PA), Region 5 Representative

Carl Milsted, Jr. (VA) - Region 5 Alternate

Dan Karlan (NJ), Region 6 Alternate

Mary Ruwart (TX) - Region 7 Alternate

Vacant: None

Staff: Steve Dasbach, National Director (joined during AZ discussion)

*Lark called the meeting to order at 6:40 PM EDT.*

## Item: Approval of Agenda

Lark asked if there was objection to adding an item to discuss appointments to the Judicial Committee.

The agenda was adopted as proposed by the Chair.

## **Item: Chair's Comments**

Lark thanked those members who participated in the Executive Committee meeting the prior evening. He reminded the members that they should identify themselves and to strive for brevity. He reminded the members to advise the Committee if they leave the meeting.

## **Item: Judicial Committee**

Lark introduced the topic.

Israel moved that the LNC endorses the recommendation of the Executive Committee that nothing be done regarding the Judicial Committee at the present time.

Hoch seconded.

Tuniewicz said that he understood that, rather than having the LNC rank possible replacements, the intention of the Executive Committee was to simply have the prior Judicial Committee members, all of whom volunteered to serve an additional term, continue to serve. He said that this would avoid a possible problem with separation of powers.

Gaztanaga suggested that a written statement be requested from each Judicial Committee member confirming his or her willingness to continue to serve.

Lark said he would make that request.

Dehn moved to substitute: that the LNC rescinds all actions taken on July 3, 2000 relating to new appointments to the Judicial Committee and reaffirms all actions taken on that date regarding continued service by prior Judicial Committee members.

Givot seconded.

Several members of the Executive Committee indicated a preference for Dehn's substitute motion.

Without opposition, the substitute motion was accepted.

Kaneshiki asked why any action need be taken at all.

Lark said that the motion passed on July 3, 2000 requires the Chair to contact all those nominated at the national convention, to obtain information from them, and for the LNC to conduct a preference ballot.

The motion passed without objection.

## **Item: Arizona**

Givot updated the Committee on the status of negotiations with ALP and ALP Inc..

Lieberman said that he had spoken with Richard Winger. He said that Winger said that it would be highly unlikely for the court to rule that one side gets to name presidential electors while the other side gets to name the presidential candidate.

Bisson said that Executive Committee recommended that ALP Inc. would lose only if the court affirmatively rules that Peter Schmerl does not have the right to put names of presidential electors on the ballot.

Dehn said that given that the AZ Supreme Court would be asked to deal with the issue of candidates, too, he agrees with Winger that it is unlikely that the court would rule that one group names the electors while the other group names the candidate.

Fylstra asked whether it is possible for John Buttrick to speak directly to Schmerl.

Givot said that he thinks it is doubtful, but that he would inquire.

Dehn said that it does not matter if what is drafted is exactly what the Executive Committee recommended. He said that if both sides accept something similar to what the Executive Committee proposed, the LNC should be willing to accept it.

Israel said that, while the LNC would probably agree to anything reasonable. He said that the formulation that is being drafted may be dangerous.

Bisson said that if both sides agree to a substantially similar proposal, that the LNC should accept it. He said that as long as no threats accompanied the LNC's urging to resolve the matter in this matter, he has no objection to the parties agreeing to somewhat different terms.

Dehn agreed.

Kaneshiki asked what was before the LNC this evening.

Lark said that no action would necessarily be taken.

Gaztanaga said that he is somewhat disgusted with this situation. He said that ALP Inc. seems to take the role, in the story of King Solomon, of the mother being willing to cut the baby in half. He said that several actions by ALP, Inc. indicated to him that it was an error to affiliate ALP Inc. He said that he feels the only rational action at this time would be to revert back to the prior status with ALP as the LNC's affiliate.

Gaztanaga moved to disaffiliate ALP, Inc., reaffiliate ALP, and let them resolve their differences on their own.

Kaneshiki seconded.

Gaztanaga spoke to his motion. He said that ALP's Inc.'s actions, including using taxpayer funds at the court level, warrants the actions he proposes. He said that he believes that the situation as it stood in January, 1999 is how it should be now.

Tuniewicz said that while understanding the sentiment behind it, he does not support the motion. He said that he might favor a motion to provide disincentives to ALP Inc. if it does not sign the agreement.

MG suggested adding a recommendation that the parties arbitrate their differences or perhaps providing a time frame for ALP Inc. to reach agreement with ALP.

Gaztanaga asked if MG would add anything else to the motion.

MG said that he declines to do so.

Lindell said that as members of the LNC, its primary objective should be getting the party's presidential and vice-presidential candidates' names on the ballot. He said that because there is a pending action on the issue of which group the state recognizes to place those names on the AZ ballot, it is premature to take the action suggested by the motion until the outcome of that case is known.

Gaztanaga agreed on the importance of putting the party's candidates' names on the ballot. He said things never should have gotten on to the point where the party is dependent on a court to determine if its affiliate has the authority to do so. He said that the LNC brought this problem onto itself.

Dasbach said that everyone needs to understand that it was ALP which brought this issue to the LNC and asked the LNC to be involved.

Gaztanaga said that fact is irrelevant.

Chambers said that she is concerned about the issues already raised. She asked what the members in AZ would like. She said that it is important to take what we know about that into consideration.

Dixon said that this is a critical point.

Martin said that he is not willing to second-guess the prior LNC. He said, despite being an alternate at the time, he did vote to affiliate ALP, Inc. He said that he disagrees that the LNC brought this problem onto itself.

Lieberman said that all national members in AZ were polled as to their preference between having ALP or ALP Inc. as its affiliate. He said that about 64% of those responding expressed a preference to have ALP Inc. as its affiliate.

MG said that LNC still does not have a list of ALP's members. He said that this list might help discern what ALP's members want.

Bisson said that the LNC's objective should be to get the presidential candidate's name on the AZ ballot.

Kaneshiki said that she disagrees that the first priority should be getting the presidential candidate on the ballot. She said that the officers of the affiliate are supposed to be chosen at the state convention. She said that the fact that there was confusion at the state convention does not mean that the LNC should be involved. She said that the LNC's priority should be to do the correct thing for AZ.

Dasbach agreed with Kaneshiki. He said that the priority should be assuring that the ByLaws be followed and the best thing is done for AZ for the long term. He said that the long-term issue should be prioritized over the short-term issue of getting the presidential candidate on the ballot.

Dehn agreed with Dasbach's prioritization. He reminded the Committee that a separate effort is being made to get Browne/Olivier on the ballot in AZ. He said that he advocated that separate effort so that the issue of

presidential ballot access would not be tied to the AZ affiliate issue. He said that there are three ways that the presidential candidate's name can appear on the ballot: the independent petition, a victory by ALP Inc. at the AZ Supreme Court, or an agreement between the parties.

Lindell said that he understands what people are saying regarding the long-term resolution issue. He said that the reason for the teleconference, rather than waiting for the next LNC meeting, is that there is a pressing issue. He said that the solution that Givot is working on may lead to a long-term solution. He said that if Givot's efforts do not lead to a resolution in the near term, that the LNC should take decisive action to place the presidential candidate's name on the ballot.

Gaztanaga said that he tends to agree with Lindell. He said that he understands Kaneshiki's concerns as well. He said that the polling in AZ included only national members in AZ. He said that in his state, national-only members are rarely ever seen or heard from.

Fylstra reported on what he had seen as a neutral observer at the 1999 AZ state convention. He said that many attendees showed up for the purpose of resolving the issues between the two groups. He said that the votes generally ran 65% or higher in favor on the actions ALP Inc. favored.

Kaneshiki said that she understood that the merger vote was not in compliance with ALP's ByLaws because a quorum was not present.

Fylstra reviewed the series of votes and parliamentary rulings that were made during the AZ state convention.

Givot updated the Committee regarding the latest communications from ALP Inc. Chair Peter Schmerl and ALP counsel John Buttrick.

Fylstra asked whether the current draft proposal includes a commitment from ALP to be the LNC's affiliate.

Givot said that it is not explicit, but that he believes that there is no doubt that they would accept or that designation.

Tuniewicz said that he is disappointed with ALP Inc.'s most recent response.

Tuniewicz moved that the LNC endorses, in principle the current draft proposal and, if ALP Inc. does not support such a proposal in principle by Saturday, August 19, that the LNC disaffiliates ALP Inc.

Givot seconded for the purpose of discussion.

Tuniewicz said that the pattern of behavior he has seen from ALP Inc. and certain representations that have been made by ALP Inc.'s chair, he believes that it is necessary to take such actions.

Gaztanaga said that he believes that he agrees with MG's prior statements. He said that ALP Inc. has gone far too far in playing legal games.

Israel spoke against the motion. He said that it is outrageous and inappropriate for the LNC to dictate solutions to its affiliates. He said that he prefers moving the parties toward resolution without initiating force.

Gaztanaga said that if this can be done, he would support it. He said that patterns of past behavior convince him this will not come to pass if ALP Inc. is allowed to proceed as it wishes.

Dasbach said that the parties seem to be getting closer. He said that perhaps we need to keep pressing the parties toward a settlement.

Lark, responding to a question, ruled that passage of either the main motion or the substitute motion would require 14 affirmative votes in order to pass because either calls for disaffiliation.

Tuniewicz said he was persuaded by Dasbach's suggestion that given more time the parties might still reach a negotiated settlement. He withdrew his motion with the consent of Givot, who had seconded it.

Givot moved to substitute that the LNC endorses, in principle, the current draft proposal recommended by the Executive Committee.

MG seconded.

Givot said that we are close to an agreement. He said that he will send the written agreement to Schmerl this evening. He stressed the importance of having every LNC member call Schmerl and lobby for acceptance

Kaneshiki asked Givot if LNC is out of time to negotiate a settlement agreement with ALP.

Givot said that he believes that we are nearly out of time, and that whatever time remains is running out very quickly.

Kaneshiki said that the LNC needs a backup plan in the event that ALP Inc. does not move forward with the current draft proposal.

Fylstra said that even if ALP's August 18 deadline passes, if something encouraging comes from ALP Inc. there is a continued opportunity to work out a proposal. He said the petition process continues to be pursued.

Dasbach said that Crickenberger will be filing in excess of 19,000 signatures and accompanying paperwork to place Browne/Olivier on the ballot will be filed with the AZ Secretary of State on August 17.

Dehn said that in addition to focusing on ALP's August 18 deadline, it is important to focus on what is happening on Schmerl's side. He said that we must consider what is happening on his side, in his mind, and in the minds of his group. He said that we have seen incredible movement over the course of the past week. He said that this movement is an incredible change in circumstances. He said that in addition to considering the needs of ALP to save face, we must consider ALP Inc.'s need to do the same. He said that considering threat of force to persuade ALP Inc. to sign an agreement is inappropriate under these circumstances. MG said that the Committee has discussed this at length. He said that Givot clearly wants a document that he can present to both sides and be able to comment that the Committee spent a great deal of time discussing possible disaffiliation.

By a vote of 10-5 with one abstention, the Committee voted to consider Givot's substitute motion.

The chair ruled that only a majority vote would be required to endorse the draft agreement in principle.

Israel appealed the ruling of the Chair saying that the same majority should be required as a vote for disaffiliation.

Givot said that it is his intention that the final agreement would require LNC approval. He said that he intends

to submit to ALP Inc. a draft proposal that it calls for ALP Inc. to resign under certain circumstances rather than to be disaffiliated. He said that accepting such an agreement does not constitute disaffiliation, but rather acceptance of a resignation, and therefore requires only a majority vote by the LNC.

The Chair ruled that if this motion is approved, that the final document must come back to the LNC for final approval. There was unanimous consent on that ruling.

Dasbach suggested that the time of the subsequent vote would be the time to determine whether 14 affirmative votes or a majority is required for the LNC to sign the agreement.

Israel withdrew his appeal.

The motion passed on a vote of 10-2 with 3 abstentions.

## **Item: Additional LNC Teleconference**

Tuniewicz asked if the LNC should schedule a meeting for Thursday, August 24 to consider further developments on this matter.

Lark said that he believes that at least six people are required to do so.

A sufficient number of people indicated their desire to hold such a meeting.

Lark said that he would schedule a meeting for 8:30 EDT on August 24, 2000.

*The Committee adjourned at 11:27 PM EDT.*

