



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Approved: August 31, 2016

Minutes of the August 10, 2016, Public Hearing on Proposed Rulemaking
by the Commission on Governmental Ethics and Election Practices
45 Memorial Circle, Augusta, Maine

Present: Margaret E. Matheson, Esq., Chair; William A. Lee III, Esq.; Meri N. Lowry, Esq.; Hon. Richard A. Nass; Bradford A. Pattershall, Esq.

Staff: Jonathan Wayne, Executive Director; Phyllis Gardiner, Counsel

Commissioner Matheson convened the meeting at 9:00 a.m.

The Commission considered the following items:

1. Public Hearing on Proposed Rulemaking on House Party Exception

Ms. Matheson opened the public hearing with an acknowledgement of and appreciation for Commissioner Michael Healy's time and service on the Commission. She welcomed Bradford A. Pattershall, Esq., as the Commission's newest Commissioner.

Mr. Wayne stated the Commission had agreed to undertake a rulemaking to clarify the house party exception. An invitation to comment was sent to interested parties on July 12, 2016. In addition, an email was sent to all candidates notifying them of the rulemaking and inviting them to comment. In response to a question from Ms. Matheson, Mr. Wayne confirmed this was a routine/technical rulemaking. He said the deadline for written comments is August 22, 2016. The Commission will consider whether to adopt the proposed rule at its meeting on August 31, 2016.

Robert Howe of Maine Citizens for Clean Elections (MCCE) appeared before the Commission. He said MCCE views house parties as grassroots democracy when done in the spirit of the law. Mr. Howe said recently there have been some questions about the limits of this exception. MCCE believes the proposed rule amendment does a good job of defining those limits. Under the proposed rule, the cost of the invitations to the house party must be borne by the individual providing the real property and the costs of food and beverages must be borne by individuals who are playing an active role in the event.

Mr. Howe said he had a question that had not been raised by MCCE, but was one that concerned him. He asked whether there was a \$250 limit that applied to the cost of invitations and another

\$250 limit that applied to the cost of food and beverages or whether the \$250 limit applied to the combined cost of the invitations and the cost of food and beverages.

Mr. Nass said he had the same question and asked Mr. Howe if he was comfortable with the requirement that the invitations can only be paid for by the person providing the real property. Mr. Howe said he thought \$250 was enough for a house party even if it included the cost of food and beverages. Mr. Nass asked if MCCE was concerned about multiple volunteers giving \$250 each in addition to the property owner paying up to \$250 for the invitations. Mr. Howe clarified that the question he raised about the \$250 limit was a personal question and not one posed by MCCE.

Mr. Lee stated that his interpretation of the statute was that each individual could pay up to \$250 towards the cost of the event. The Commission had a concern about multiple volunteers renting space for the event and each claiming the exception in order to share the cost of the invitations. He thought that concern would be addressed by limiting the house party exception such that the cost of the invitations could only be paid by a single individual providing the real property. Mr. Nass agreed and stated they did not want to restrict this too much because a person might want to rent a grange or legion hall. Mr. Howe said they could probably address all these issues by setting a cumulative \$250 limit on all expenses for a house party.

Mr. Lee asked Ms. Gardiner if setting a cumulative \$250 limit for the entire cost of the house party would violate the statute. Ms. Gardiner stated that setting a cumulative \$250 limit could be challenged as too restrictive because the statutory language provides that the exception be applied per individual per election, not per event. Mr. Howe said he agreed with the interpretation that the \$250 limit applied to an individual per election.

Mr. Nass said an important element of the proposed rule is that the individual must be an active participant in the event; however, that term has not really been defined. Ms. Matheson and Mr. Lee commented that merely writing a check would not be accepted as active participation under the proposed rule. Mr. Howe said the proposed rule was helpful in restricting the exception to those who were actively involved in the event.

Mr. Lee asked how the distinction between routine/technical rules and major substantive rules was determined. Ms. Gardiner explained that the Legislature designates an agency's rulemaking authority. If the Legislature does not designate that a rule is major substantive, it is routine/technical. She stated any rulemaking involving the Maine Clean Election Act is major substantive.

Ms. Lowry stated that it appeared the Commissioners were in agreement that multiple volunteers could pay up to \$250 for food and beverages per election as long as they were actively volunteering at the house party. Ms. Matheson agreed and stated she was comfortable with the proposed rule.

Alison Smith, a board member with MCCE, appeared before the Commission. She said she appreciated the work the Commission has done on this issue. Ms. Smith said house parties are a great traditional element of many candidates' campaign and that \$250 is a generous amount for a house party. The statute is somewhat ambiguous and the proposed rule provides much-needed clarity to candidates. The proposed rule will have the intended effect of closing the loophole.

Mr. Nass made a motion, seconded by Mr. Lee, to adjourn. The motion passed. The meeting adjourned at 9:24 p.m.

Respectfully submitted,
/s/ Jonathan Wayne
Jonathan Wayne, Executive Director