

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE  
DIRECTOR

July 1, 1993  
AO-93-13

Gregory G. Nadeau  
10 Surf Street  
Marblehead, MA 01945

Re: Political Committee Expenditures

Dear Mr. Nadeau:

This letter is in response to your March 26, 1993, letter regarding the legality of certain expenditures that your political committee contemplates making in connection with your activities on the Marblehead Planning Board ("Board").

You have stated that you are a candidate for re-election to the Board. Although you ran uncontested in this Spring's election, you plan to establish a political committee to raise funds for expenses relative to, among other things, your position on the Board. You further state that you have "commitments" to assume the Chairmanship this Spring and you are interested in using your campaign funds to improve the Board's reputation and position in the community. You also believe that these changes will affect the voting public's perceptions of your stewardship of the Board and will have a direct impact on your political future.

In this context, you have asked if your political committee may make expenditures for (1) providing food for the public at Board meetings, (2) supplying the Board with audio visual resources to facilitate audience involvement in Board deliberations and (3) mailing information to the community describing initiatives the Board is engaged in, thus building a constituency of support for your proposed changes.<sup>1</sup>

For the reasons set forth herein and subject to certain restrictions, it is this office's opinion that your political committee may make expenditures as you propose. The fundamental question underlying the first two expenditures noted above, e.g. food and audio visual resources, is whether these expenditures are "political" or "governmental."

It has been the long-standing position of the Office of Campaign and Political Finance ("OCFF") to distinguish between "political purposes" and "governmental purposes."

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1. I assume that for purposes of this opinion that no funds will be raised at a Board meetings to help defray the costs of any of these expenditures.

Accordingly, it is permissible for a political committee to make expenditures only if the primary purpose of the expenditure was political in nature, i.e., for the enhancement of a candidate's political future. Conversely, it was impermissible for a political committee to make expenditures if the primary purpose of the expenditure was governmental in nature. See AO-87-05A and AO-88-30. As a result of a recent amendment certain activities which were in the past viewed as governmental, e.g. the provision of constituent and legislative services and district offices, are now permissible. See M.G.L. c.55, s.6 and amended by section 379 of Chapter 133 of the Acts of 1992. See also AO-92-31.

Although the provision of food to persons attending Board meetings and the provision of audio media resources to improve these meetings may be appropriate function for the municipality to perform, they are not exclusively governmental function. You wish to provide food because Board meetings are often lengthy and occur in the evenings. Similarly, you wish to provide audio media resources to aid and improve communication at meetings.<sup>2</sup> I assume, of course, that you will receive credit politically for these activities. As a result these proposed expenditures are likely to "enhance your political future" and within the contest of a planning board election bear a sufficient nexus to be appropriate as a political rather than a personal, i.e. governmental expenditure. I note that the services provided may also be legitimate service to your constituents an issue, however, that I do not need to address because of my conclusion above. Therefore, it is OCPF's opinion that your political committee may make expenditures for food and audio visual resources consistent with the requirements of M.G.L. c.55, s.6.

The third expenditure which your political committee wishes to make is for the cost of mailing information to the community describing initiatives the Board is engaged in and building a constituency of support for these changes. In OCPF's opinion such an expenditure is clearly permissible either as either a constituent service or for exclusively political reasons. In either case such communication clearly has the potential for the enhancement of your political future and would be a permissible committee expenditure. See 970 CMR 2.05 (2) (a) (d) (p) and (r).

I would caution you on one point relative to the provision of constituent services regarding the above referenced mailing. If the mailing constitutes a constituent service it is permissible to use official Board stationery.

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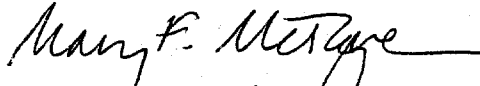
2. It is unclear from your letter whether your political committee intends to donate audio media equipment to the Board or merely permit the Board and public to use the equipment at Board meetings. I assume your intent is the latter. If your committee wishes to make a donation of equipment, such a donation must comply with the requirements of 970 CMR 2.06 (3) (a).

However, if the mailing is directly supporting your election or re-election efforts, then Board stationery or the use of the Board or town seal would violate the campaign finance law's prohibition against the use of public resources for political purposes. See Anderson v. City of Boston, 376 Mass. 178 (1978), Interpretative Bulletin OCPF-IB-91-01.<sup>3</sup>

This opinion has been rendered solely on the basis of the representations made in your letter as well as telephone calls with this office's General Counsel, Peter Sturges, as set forth in this letter, and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very truly yours,



Mary F. McTigue  
Director

Enclosure

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3. The use of municipal stationery or a city or town seal for political purposes also violates M.G.L. c.268A, the state's conflict-of-interest law which is enforced by the State Ethics Commission.