

MICHIGAN REPUBLICAN PARTY CREDENTIALS COMMITTEE

MEETING, FEBRUARY 2, 2017

IN THE MATTER OF THE CREDENTIALS CHALLENGES FOR THE OAKLAND 11th DISTRICT CAUCUS CONDUCTED ON JANUARY 26, 2017.

FINDINGS AND RULING

The Committee reviewed the following documents:

1. Challenge of David Staudt, dated January 29, 2017
2. Challenge of Diane Cusumano, received January 28, 2017
3. Challenge of Jill Wilkinson, received January 30, 2017
4. Challenge of Ron Dwyer affirmed by Jim Thienel, dated January 31, 2017
5. Challenge of Liz Smith, received January 31, 2017 with 3 pages of attached emails
6. Challenge of MaryAnn Cherasaro and Nicholas Cherasaro, dated January 30, 2017.
7. Challenge of Ron Dwyer, received January 30, 2017
8. Stephen Dawley, received January 30, 2017
9. Correspondence from Theresa Mungioli, Oakland County Chair, dated January 29, 2017
10. Email to David Staudt containing the Official Call to the Oakland County Convention
11. Email from Theresa Mungioli to Greg Dildillian, and others, dated January 6, 2017
12. Email from the Michigan Conservative Coalition to David Staudt, dated January 24, 2017 with attached "Proposed Fair Convention Rules and Orders of Business"
13. Email from Theresa Mungioli to David Staudt, dated January 25, 2017 containing the OCRP Response to the MCC Proposed Rules
14. One page Facebook screenshot
15. Correspondence from Theresa Mungioli dated January 29, 2017 with attached email from Theresa Mungioli to District Chairs dated December 16, 2016, attached email from the Oakland County Republican Party transmitting the official call to the convention, and attached emails from Eric Bond to Oakland County Republican Executive Committee Members dated December 27, 2016 and December 30, 2017.
16. Response from Oakland County Chair Theresa Mungioli regarding Oakland 11 Challenges
17. Response from Matt Maddock, Oakland 11th Congressional District Permanent Chair
18. Credentials Committee Report from the Oakland 11th Congressional District Caucus dated February 1, 2016

19. Video of Oakland 11th District Caucus lasting 6 minutes 2 seconds submitted by challengers
20. Transcript of video footage from Oakland 11th District Caucus from Michigan Republican Party staff consisting of 4 pages.

Applicable Rules

The applicable Republican Party Of Michigan Rules For Selection Of Delegates And Alternates To The 2017 Republican County And State Conventions (“MRP Rules”) are as follows:

1. Rule 1 empowers the Chair of the County Executive Committee to issue the call to the county convention specifying the location, time and date of meeting of all such county conventions.
2. Rule 1 further provides the call must be forwarded by first class mail to duly elected precinct delegates no later than January 3, 2017.
3. Rule 8 provides that county conventions may exercise one of two options for electing State Convention delegates and alternates--the apportionment method or the at-large method.
4. Rule 8A provides that at the time of issuing the call to the convention, the county executive committee may apportion to the various wards, precincts, townships, cities, or districts, of such county the delegates to the State Convention to which such county is entitled. Please note that Rule 8A does not say shall-it does not say must-it says may. Please see item C under findings for further information regarding this rule and how it pertains to Oakland County.
5. Rule 8A further provides that an apportionment plan which satisfies the requirements of these Rules must be precisely followed by the county convention and cannot be changed or ignored by the convention or any sub-unit of the convention.

Findings

Based upon an application of the foregoing rules to the facts as set forth in the above challenges and the Credentials Committee Report of the Oakland 11th Congressional District Caucus, the Committee makes the following findings:

- A. Theresa Mungoli, in her capacity as Chair of the Oakland County Republican Committee properly transmitted the call to the Oakland County Convention before the deadline of January 3, 2017.
- B. The call indicated the caucuses would take place using the apportionment method for selection delegates and alternates to the Michigan Republican Party

State Convention on February 10-11, and specified to the methodology to be used.

- C. Although not specifically challenged, there is sufficient evidence that the call to convention contained an apportionment methodology and that the Call was ratified by the Oakland County Republican Party/Executive Committee; as reflected by the fact that an Oakland County Republican Executive Committee Member challenged the call as not being sent on behalf of the Executive Committee in its entirety, and attempted to call an Executive Committee meeting regarding the issue. The approval of the required number of Executive Committee members to hold the meeting was not obtained, therefore the Executive Committee declined to meet to address the challenge. Additional evidence that the apportionment plan was proper can be found in the fact that this credentials committee made it clear to those who were considering challenging the apportionment plan, that sufficient evidence indicated the plan was properly issued, and the fact that the Oakland 11th District Credentials Committee Report indicates that the delegates remaining at the Convention after the passage of the Caucus Rules ultimately decided to caucus according to the apportionment plan.
- D. The Oakland County Call to Convention and Apportionment plan were also challenged in another Congressional District Caucus, Oakland 9. The Credentials Committee unanimously rejected the challenge and approved the submitted Call to Convention and Apportionment from the Oakland County Chair.
- E. After electing permanent officers, the Oakland 11th District Caucus adopted a set of "Green Sheet Rules", nullifying the Call to the Convention in violation of MRP Rule 8A, to elect State Convention Delegates and Alternates at large. MRP Rule 8A provides that an apportionment plan which satisfies the requirements of these Rules must be precisely followed by the county convention and cannot be changed or ignored by the convention or any sub-unit of the convention. The record reflects the fact that the Oakland 11th District Caucus passed only sections B, C, and D of the proposed "Green Sheet Rules" for the Caucus, omitting section E which specifically provided for selection of delegate and alternates by apportionment into city sub-caucuses.
- F. During debate and before passage of the Oakland 11th District Caucus "Green Sheet Rules", the Caucus, and the officers of the Caucus, were specifically advised by an MRP Credentials Committee member, who read a statement out loud to the entire 11th District Caucus, that their actions would result in a violation of MRP Rule 8A, and they were advised of the consequences that would result if a set of rules is in violation of the MRP Rules and were adopted by the Caucus. Specifically, the video transcript, at minute 34:39, reflects the fact the Chair, Matt

Maddock, and the Caucus were informed: “Those rules as you have proposed them violate the Call to Convention. You have no authority to do that under State Party rules, therefore if you adopt them we will walk out on you and have their own convention”

- G. Despite several warnings, the Caucus and its leadership proceeded with adoption of the Oakland 11th District Caucus “Green Sheet Rules” and the Caucus adopted the rules by a voice vote. The rules adopted were not in conformity with MRP Rule 8A as only “Green Sheet Rules” B, C and D were adopted by this vote. Section E, which provided for the selection of delegates and alternates as indicated in the Call to the Convention by apportionment by city sub-caucuses, was not passed by the Caucus.
- H. After the Caucus voted for the adoption of “Green Sheet Rules” B, C and D, and the ruling on the voice vote was announced by Chair Matt Maddock, there were multiple calls for Division of the Assembly. The requests for Division were ignored by Chair of the Caucus in a violation of Robert’s Rules. Video from the Caucus shows an extremely close voice vote and calls for a division should have been granted.
- I. In response to the improper action by the Caucus officers and the vote of the Caucus at large, and because of the capricious violation of Robert’s Rules by not allowing a roll call vote when division was called on a very close voice vote, approximately 110 elected precinct delegates left the caucus room and proceeded to conduct their own sub-caucus in a nearby room in the same facility, in conformity with the apportionment rules transmitted in the call to the convention. The evidence reflects that their sub-caucuses were appropriately conducted.
- J. Despite being read a declaration from the MRP Credentials Committee to the contrary, 11th District Chairman Matt Maddock declared in his own opinion, as evidenced by the below quote at 45:55 of the video, that the Call to Convention was not sufficient and informed the caucus wrongly that the only option that complies with MRP Rules was choosing delegates at-large rather than by apportionment. The Chair then continued to conduct this convention by applying Robert’s Rules in an arbitrary and capricious manner.

“Listen carefully ladies and gentlemen. We will now begin with the selection of state delegates and alternates. The apportionment plan included in the call to convention was not approved by the county executive committee. Therefore, it is my opinion that this apportionment plan...I know we have an option here...I’m making a statement. We have the option. Therefore, it’s the chair’s opinion that the apportionment plan does not satisfy the requirements of Rule 8A of the Michigan Republican Party rules. In the absence of an apportionment plan

approved by the executive committee, only the at-large method complies with Michigan Republican Party rules. In other words, since the apportionment was done illegally, we default to the only available method which is the at-large method. This is what's going on."

- K. After the above statement by Chair Matt Maddock, a roll call was taken to determine whether a quorum was present in order for the Caucus to continue conducting business. Notwithstanding the passage of the "Green Sheet Rules" eliminating the possibility of selecting delegates and alternates by apportionment, and Chair Matt Maddock's comments approximately 7 minutes earlier, Chair Matt Maddock then, in contradiction to the "Green Sheet Rules" adopted by the Caucus and his prior statement, made the following comment, at minute 52:28:

"Ladies and Gentlemen, so we have a quorum. 128, ok. So now we have a decision to make, you have a decision to make. At this point, you could caucus in your city sub-caucuses or we can do an at-large method which is essentially, well you have to make that decision, so I need a motion off the floor."

The 11th District Chair's comments were in direct conflict with the comments made 10 minutes earlier, stating that only the at-large method would comply with MRP Rules.

- L. After Chair Matt Maddock's conflicting comments as to the methods available to the Caucus for the selection of the delegates and alternates he opened the floor for a motion and discussion.
- M. A motion for the Caucus to break into sub-caucuses/apportionment for the selection of delegates and alternates by apportionment was offered and was passed by the Caucus. During debate, at minute 54:04, a precinct delegate asked a telling question:

"A question, if we do break into the original sub-caucuses, does that basically cut them off at the pass and prevent any challenges to this convention?"

Unlike his comments as to the deficiency of the Call to the Convention only 10 minutes earlier, Chair Matt Maddock did not provide an argument as to why such challenges might not be successful, or how the actions taken by the Caucus might be defensible.

"There's going to be credentials challenges filed no matter what we do. Discussion? That's a really good question. I can't answer that. I can't speak for the Credentials Committee."

- N. In light of the fact that the “Green Sheet Rules” passed by the Caucus did not contain a provision allowing a selection of delegates and alternates by the apportionment process, passage of the motion to break into sub-caucuses would have required a motion to amend the Caucus rules. Robert’s Rules of Order states that to amend the Rules of a convention, there must be a two-thirds vote. The record reflects that no such motion was ever offered, and had it been offered the Caucus would have been unable to reach this threshold as only 128 members of the 223 registered Oakland 11th District Precinct Delegates remained in the room. Consequently, by breaking into sub-caucuses, the Oakland 11th District Caucus improperly violated the very rules they had adopted.
- O. At no time after the Caucus decided to employ the sub-caucus/apportionment process did the Caucus Officers inform the duly elected precinct delegates conducting their own sub-caucuses, that the Oakland 11th District Caucus was selecting delegates in accordance with the apportionment methodology. In fact, the record suggests the Caucus deliberately intended to disenfranchise the rights of the other delegates conducting their own sub-caucuses by not only failing to inform them as to what had taken place, but also by attempting to rush through the process. The following comment, at minute 54:24, was made by Rosanne Ponkowski, addressing the Caucus during the discussion of the Motion to break into sub-caucuses:
- “So they have threatened us with having to redo the whole thing if we did it as at-large instead of breaking into our city sub-caucuses, so we have an opportunity right now to break into our city sub-caucuses since they’re out of the room and get this over with and be in compliant (sic), so I highly suggest that we vote for this and move on and get our business done.”
- The same individual made another comment, at minute 56:43, suggesting the need to act quickly:
- “Again, I think we need to move quickly and break into the city-sub-caucuses that were originally put on the call to convention so we will be in compliant (sic).”
- P. Ultimately, two sets of sub-caucuses took place and there were two sets of delegates and alternates selected to State Convention from the Oakland 11th District.

Ruling:

It is the unanimous decision of the Credentials Committee that the delegates and alternates submitted to the Michigan Republican Party by the Oakland 11th District Caucus Chair shall not be seated and credentialed due to blatant violation of MRP and

Robert's Rules. Those state convention delegates and alternates selected at the alternative sub-caucus of the Oakland 11th District Caucus as submitted to the Credentials Committee shall be seated and credentialed.

After consultation with legal counsel, and carefully and painstakingly considering the facts of this situation and its potential impact on the associational rights of Michigan Republican Party members, we believe the Michigan Republican Party will be irreparably harmed if the alternate sub-caucus delegate and alternate list is not accepted as the official duly and properly selected list of delegates and alternates.

The actions of the Oakland 11th District Caucus and its Leadership disenfranchised the rights of duly elected precinct delegates to participate in a Caucus conducted in a fair manner according to the duly issued Call to the Convention. In an arbitrary and capricious manner the Oakland 11th District Caucus and its Leadership: improperly passed "Green Sheet Rules" designed to nullify the Call to the Convention in violation of MRP Rule 8A; failed to follow Robert's Rules of Order in connection with the adoption of the "Green Sheet Rules" by failing to recognize several calls for a division on the adoption of the "Green Sheet Rules"; failed to properly amend the "Green Sheet Rules" by a 2/3 vote as required by Robert's Rules of Order, and; failed to inform all duly elected precinct delegates attending the Oakland 11th District Caucus of the ultimate adoption of the apportionment method for the selection of delegates and alternates thus preventing all duly elected precinct delegates from participating in the Oakland 11th District Caucus sub-caucuses.

The equities of this situation demand this decision. The behavior of the Oakland 11th District Caucus and its leadership was calculated and intentional and does not warrant a reconvening of the Oakland 11th District Caucus. To allow the Oakland 11th District Caucus and its Leadership to arbitrarily and capriciously disregard well-established Michigan Republican Party rules in an effort to intentionally deny county convention delegates a meaningful and fair opportunity to exercise their first amendment associational rights to participate in the selection of state convention delegates and alternates cannot be tolerated.

Ronna McDaniel, Michigan Republican Party Chair
Kathy Berden, Michigan National Committeewoman
Rob Steele, Michigan National Committeeman
Hank Choate, Michigan Republican Party Issues Chairman
Gary Howell, Michigan Republican Party Policy Chairman
Bill Runco, Michigan Republican Party Budget Chairman

*Jeff Sakwa, Michigan Republican Party Co-Chair, recused himself from this decision.