

**Libertarian Party of California  
Executive Committee Minutes  
Special Meeting**



**05 Oct 2020  
Virtual Meeting**

**Approved by the LPC Executive Committee December 12, 2020**

# LPC Special Executive Committee Minutes

05 Oct 2020

## Virtual Meeting

### Call to Order

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Chair Robson called the meeting to order at 8:05pm on 05 Oct 2020. The meeting was held online due to government restrictions on in-person meetings during the 2020 COVID-19 pandemic and the need to expedite a potential action prior to the November 2020 general election.

### Roll Call

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A quorum of the Executive Committee was present with the following voting members:

#### Officers:

Mimi Robson, Chair  
Kenneth Brent Olsen, Vice-Chair  
Paul Vallandigham, Secretary  
Steven Haug, Treasurer

#### Area Coordinators:

Brandon Nelson, Northern Area  
Coordinator  
Jon Prosser, Central Area Coordinator  
Wendy Hewitt, Southern Area  
Coordinator

#### At-Large Members:

Rick Dawson  
Eduardo Flores  
Rachel Nyx  
Angela McArdle  
Kalish Morrow  
Jillian Olsen  
Joshua Smith

#### At-Large Alternates:

Richard Fast (seated at 8:09 pm)  
Dawn Brosius

At-Large Alternate Richard Fast was seated at 8:09 pm.

#### Members Not Present:

Boomer Shannon

#### The following guests were in attendance:

John Alpay, Candidate  
David Naranjo, LPOC Chair  
George Reis, LPOC 1<sup>st</sup> Vice Chair  
Chris Ganiere, 2<sup>nd</sup> Vice Chair  
Sam Ulloa, LPOC Secretary  
Tim Thein, LPOC Technology Officer  
Howard Hart, Candidate  
Tami Wilhelm  
James Gray  
Troy Bourne, San Juan Capistrano Mayor  
Art Sanchez  
Steve Bemerwald

\*\*Additional guests were present but not listed as they didn't participate in the meeting

## **Adoption of Agenda**

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A meeting agenda was distributed prior to the meeting (electronically) to all members for review.

**Motion** J. Smith made a motion with second to adopt the agenda as presented (below).

**Vote:** The motion passed with no discussion or objection.

**FINAL AGENDA**  
**Libertarian Party of California**  
**Executive Committee Special Meeting**  
**October 5, 2020 –Electronic Meeting via Zoom**

Call to Order–8:00 p.m.

Roll Call

Adoption of Agenda

Public Comment (3 minutes per comment)

### **Call of the Meeting**

Consideration of Rescinding Endorsement of John Alpay

Discussion

Adjourn

## **Public Comment**

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Tami Wilhelm discussed a petition from John Alpay to the San Juan Capistrano City Council requesting the removal of herself and several others from the San Juan Capistrano Planning Commission and the alleged disenfranchisement of voters in San Juan Capistrano’s District 5 due to an alleged violation of the Hatch Act.

Howard Hart (opposition candidate) discussed his perspective on the situation revolving around candidate John Alpay’s endorsement from the Libertarian Party of California and the resultant alleged violation of the Hatch Act.

Judge Jim Gray (retired) recommended that Mr. Alpay publicly refuse the endorsement of both the Libertarian Party of California and the Libertarian Party of Orange County.

Troy Bourne (current Mayor of San Juan Capistrano) provided personal remarks (not in his position as Mayor) regarding candidate John Alpay’s endorsement from the Libertarian Party of California.

Christa Hart (daughter of candidate Howard Hart) provided remarks regarding candidate John Alpay's endorsement from the Libertarian Party of California and his actions during the campaign.

Art Sanchez (Past President of the South Orange County Republican Assembly and volunteer for the John Alpay campaign) provided remarks regarding candidate John Alpay's endorsement from the Libertarian Party of California.

### Consideration of Rescinding the Endorsement of John Alpay)

Secretary Vallandigham raised a Point of Order, stating that the endorsement of Mr. Alpay at the 12 September 2020 meeting of the LPC Executive Committee was in violation of LPC Bylaw 12 Section 1 due to the fact that Mr. Alpay was registered as a No Party Preference voter at the time he was endorsed by the Executive Committee and did not register as a Libertarian Party member until 18 September 2020. This alleged violation was brought to the attention of the Executive Committee and Mr. Alpay by Secretary Vallandigham via email on 4 Oct 2020.

Chair Robson ruled on the Point of Order as follows:

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## Ruling of the Chair

### Background

The Libertarian Party of California (LPC) Executive Committee (EC) is authorized in the Party's Bylaws to endorse Libertarian Candidates for Partisan and Non-Partisan elections. Our 3<sup>rd</sup> quarter meeting was held on September 12, 2020 and Candidate Endorsements was on the agenda for that meeting.

At the September 12, 2020 meeting we endorsed a number of candidates which included Mr. John Alpay for San Juan Capistrano City Council, District 5. At the time of the meeting I was under the misguided impression that Mr. Alpay, who had been registered No Party Preference in the State of California, had changed his registration to Libertarian and was qualified for our endorsement.

I later realized that Mr. Alpay was still not registered as a Libertarian so I contacted him, at which point he sent proof of his change of registration to Libertarian which occurred on September 18, 2020. At that point I determined that any breach had been rectified and did nothing further regarding the matter.

### Timeline

**On September 9, 2020** it was announced that at the September 12, 2020 LPC EC meeting, there would be consideration of endorsements of Libertarian candidates throughout the state.

**On September 9, 2020**, Mr. George Reis, Vice-Chair of the Libertarian Party of Orange County, contacted me via email letting us know there were five candidates running for office in Orange County and stated he would contact them about the possibility of receiving endorsement from the LPC EC.

**On September 10, 2020**, Mr. Reis sent me an email with a list of the five candidates. In this email he stated that one of the candidates, Mr. Alpay, was not a registered Libertarian.

**On September 10, 2020**, Mr. Reis sent an email to the five candidates, which included Mr. Alpay, and copied me, giving them the opportunity to be endorsed at our meeting.

**On September 10, 2020**, I sent an email to Mr. Reis to explain that although the County Organization may endorse candidates that are registered No Party Preference (decline to state), the LPC EC cannot. I stated that being Mr. Alpay was currently not registered Libertarian he would not be able to be eligible to be considered for endorsement.

**On September 11, 2020**, Mr. Alpay responded to Mr. Reis email stating he wished to be considered for endorsement, and sent a brief statement that he asked be submitted to the LPC EC during our meeting.

**On September 12, 2020**, during the meeting I put Mr. Alpay's name up for endorsement and read his statement. I was of the mistaken belief that Mr. Alpay had been made aware that he was required to be a registered Libertarian and assumed that his sending the email asking for endorsement meant he had changed his voter's registration.

**\*\*To be clear, neither Mr. Reis nor Mr. Alpay told me that the voter registration has been changed, it was simply my assumption. So when I announced to the EC that he was up for consideration I stated the issue with registration has been remedied. This was solely my mistake\*\***

**On September 12, 2020**, at the close of the agenda item it was announced that all endorsed candidates should forward their information to our webmaster to be included on our Candidates page of the website.

**On September 25, 2020**, I realized that several of the endorsed candidates had not been added to the website. At that time I went through the list to send out an email reminding them to send their information to the webmaster. At that time, I checked Mr. Alpay's voter registration to make sure his registration had been changed. When I saw he was still registered as No Party Preference in our records I sent him an email asking about his registration and he responded with an email which included his **CALIFORNIA VOTER REGISTRATION RECEIPT** showing his registration had been updated on September 18, 2020. At that time I considered the breach to have been addressed.

**On September 25, 2020**, I sent an email to all endorsed candidates, including Mr. Alpay that had not been updated on our website asking them to forward their bio and photo to our webmaster.

**On September 28, 2020**, I was contacted by Ms. Hart, regarding the allegations that Mr. Alpay was using the Hatch act to disqualify Howard Hart, the opponent for the City Council District 5 race. Ms. Hart sent documentation regarding this allegation which I forwarded to the EC. I then had conversations with several members of the EC who all stated that this issue would need to be addressed and should be done as soon as possible.

**On September 28, 2020**, I sent notification that the Chair was calling a Special Meeting of the EC to discuss these allegations as well as possible reconsideration of Mr. Alpay's endorsement.

**On October 5, 2020**, the LPC State Secretary sent an email raising the issue that Mr. Alpay was not qualified to have received the Party's endorsement at the time of the September 12, 2020 meeting, and that this would be a continuing breach of the Bylaws. I responded that being this could be considered a continuing breach a Point of Order would be in order at our Special Meeting to be held on October 5, 2020 at 8:00 pm pacific time, and that I would be prepared to rule at that time.

Madam Chair,

It appears to me that there may be a problem with the LPC Executive Committee's endorsement of John Alpay for the San Juan Capistrano City Council District 5 seat, based on the following four facts:

- 1) LPC Bylaw 12 Section 1 reads, in part, "...The Executive Committee may endorse **any registered Libertarian candidate** [my emphasis] for public office, or it may rescind its endorsement of any candidate for public office..."
- 2) The attached screenshot (Alpay L2 Registration Screenshot.png) of the L2 voter registration information database we use for LPC business indicates that the only John Alpay registered to vote in San Juan Capistrano was registered as a No Party Preference voter on 06 Dec 2018.
- 3) The LPC Executive Committee endorsement of John Alpay for the San Juan Capistrano City Council District 5 seat occurred at its 12 Sep 2020 meeting.
- 4) The screenshot attachment provided by you in this email chain (Screenshot 2020-09-27 at 11.50.34 PM.png) indicates the same voter, John Alpay of San Juan Capistrano, registered as a Libertarian Party voter on 18 Sep 2020.

Based on the sequence of events, since Mr. Alpay was registered No Party Preference at the time of his endorsement by the LPC Executive Committee

on 12 Sep 2020 and only registered Libertarian Party on 18 Sep 2020 (**after** his endorsement), it appears that the endorsement of Mr. Alpay on 12 Sep 2020 was in clear violation of LPC Bylaw 12, Section 1.

Further, it seems to me that the endorsement of Mr. Alpay on 12 Sep 2020 might be a continuing breach of LPC Bylaw 12, Section 1.

Can you address this issue and, perhaps, suggest any and all remedies to the situation (if it is, indeed, a continuing breach) that might be available to the Executive Committee at tomorrow's Special Meeting?

Thank you,

Paul K. Vallandigham, Secretary

Libertarian Party of California

### **Findings**

After receiving Mr. Vallandigham's email I researched the LPC Bylaws, RONR 12<sup>th</sup> Edition, and consulted a Parliamentarian in preparation of this Point of Order being made.

Typically a Point of Order must be made at the time of the breach:

**Timeliness Requirement for a Point of Order.** The general rule is that if a question of order is to be raised, it must be raised promptly at the time the breach occurs. RONR (12<sup>th</sup> ed.) 23:5

However, there are certain exceptions to the timeliness requirement:

The only exceptions to the requirement that a point of order must be made promptly at the time of the breach arise in connection with breaches that are of a continuing nature, whereby the action taken in violation of the rules is null and void. In such cases, a point of order can be made at any time during the continuance of the breach—that is, at any time that the action has continuing force and effect—regardless of how much time has elapsed. Instances of this kind occur when:

- a) a main motion has been adopted that conflicts with the bylaws (or constitution) of the organization or assembly, RONR (12<sup>th</sup> ed.) 23.6-a

The question then becomes whether this is a violation of the LPC Bylaws, and if so, is it creating a continuing breach of our rules.

Per the LPC Bylaws, the Executive Committee may endorse any registered Libertarian per the following:

#### **Bylaw 12: Executive Committee**

##### ***Section 1***

The Executive Committee shall be responsible for the control and management of all of the affairs, properties and funds of the Party consistent with these Bylaws, and any resolutions which may be adopted in convention. **The Executive Committee may endorse any registered Libertarian candidate for public office,** or it may rescind its endorsement of any candidate for public office. (*emphasis added*)

Therefore it is clear that for the Executive Committee to make an endorsement the candidate must be a registered Libertarian. Endorsing a candidate that is registered No Party Preference (decline to state) is a clear violation of our governing documents.

The next thing to consider is if the action taken to endorse a candidate that was **not** a registered Libertarian, but at the time of this ruling **is** a registered Libertarian is a continuing breach of the Bylaws.

There is no clear reference to endorsement of candidates in RONR, however there are citations for elections, which could be considered the same as an endorsement as it requires the elements of an election as well as a term (which would end at the end of the election the endorsee is running).

**Time at Which an Election Takes Effect.** An election to an office becomes final immediately if the candidate is present and does not decline, or if he is absent but has consented to his candidacy. RONR (12ed.) 46:46

In this case, Mr. Alpay was not present at the time of the endorsement (election), however his statement sent asking that it be considered by the EC would be considered his consent.

However, an election may be contested in certain circumstances.

. . . , an election may be contested only by raising a point of order. The general rule is that such a point of order must be timely, as described in 23:5.

. . . Other exceptions to the general timeliness requirements are those that come within the five categories listed in 23:6, in which case a point of order can be made at any time during the continuance in office of the individual declared elected. For example:

- a) If an individual does not meet the qualifications for the post established in the bylaws, his or her election is tantamount to adoption of a main motion that conflicts with the bylaws. RONR (12<sup>th</sup> ed.) 46:49-a

From the above, it seems clear that Mr. Alpay was not qualified for endorsement at the time of the LPC EC meeting on September 12, 2020; however at the time of this meeting has now met all of the qualifications for endorsement.

At the time of endorsement our governing documents were breached, however it could be argued that the breach ceased on September 18, 2020 when Mr. Alpay changed his voter registration to Libertarian.

The call of this meeting is consideration of the endorsement status of Mr. Alpay, and whether that consideration is to endorse or rescind endorsement, the call has not materially changed.

### **Ruling**

**The Ruling of the Chair is that the endorsement that was made on September 12, 2020 is now null and void, having been a violation of our Bylaws and governing documents. However if Mr. Alpay still wishes to seek the endorsement of the Libertarian Party of California, this meeting will continue forward on the basis of considering Mr. Alpay for endorsement in his campaign for San Juan Capistrano City Council, District 5.**

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Chair Robson asked Candidate John Alpay if he was interested in seeking the endorsement of the LPC at this time.

Mr. Alpay requested a 5 minute recess to consult with his advisors.

Northern Area Coordinator B, Nelson requested that the live stream of the meeting be halted during the requested recess so inappropriate content that was “Zoom-bombed” early in the live stream of this meeting (prior to the call to order) could be deleted from the recording. Without objection, Chair Robson halted the live stream and ruled that the meeting was in recess at 8:51 pm.

The meeting resumed at 8:57 pm.

Mr. Alpay stated he still wished to seek the endorsement of the LPC Executive Committee.

### **Discussion**

John Alpay read from a letter from George Reis (Orange County Libertarian Party) and discussed the sequence of events related to his voter registration, invocation of the Hatch Act, his endorsement at the September meeting of the Executive Committee meeting, and he requested the endorsement of the EC at this time.

A. McArdle stated her position that she did not believe there was cause to rescind the LPC’s endorsement of Mr. Alpay at this time because she did not see a violation of the Non-Agression Principle in Mr. Alpay’s actions.

Southern Area Coordinator W. Hewitt made an inquiry to Mr. Alpay regarding his campaign tactics and the Hatch Act, to which he responded.

**Motion** E. Flores made a motion with second to endorse John Alpay for San Juan Capistrano City Council.

Discussion ensued.

David Naranjo requested that the committee hear from candidate Hart. There were no objections.

Candidate Hart responded.

Steve Bemerwald requested to speak. No objections were heard and Mr. Bemerwald spoke in support of candidate Hart.

David Naranjo requested to hear from candidate Hart regarding the Office of Special Council (OSC) opinion on the Hatch Act status of this election. There were no objections, and candidate Hart commented.

Chair Robson asked for further clarification on the effect of the Hatch Act and a ruling or a non-ruling of the OSC.

Vice Chair Olsen commented on the effect of stopping campaigning based on concerns about potential violation of the Hatch Act and voiced his opposition to endorsement at this time.

A. McArdle called the question. No objection was heard.

**Vote**

The motion to endorse John Alpay for San Juan Capistrano City Council failed to achieve a 2/3 vote on a roll call vote of 0-8-6-1 (Y-N-EA-NV) vote as follows:

R. Dawson	Expressly Abstained
E. Flores	Expressly Abstained
S. Haug	No
W. Hewitt	No
A. McArdle	Expressly Abstained
K. Morrow	No
B. Nelson	Expressly Abstained
R. Nyx	Expressly Abstained
J. Olsen	No
K.B. Olsen	No
J. Prosser	No
J. Smith	Expressly Abstained
P. Vallandigham	No
R. Fast	No
Chair Robson	Did Not Vote

**Adjournment**

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The meeting was adjourned at 9:31 pm.

Respectfully Submitted,  
Paul K. Vallandigham, Secretary  
Libertarian Party of California