

City of Portland

Clean Elections Review Board-May 9, 2024



Monday, December 9, 2024 at 2:00 PM This meeting will be held via zoom.

REMOTE ACCESS INFORMATION:

<https://portlandmaine-gov.zoom.us/j/88551859270?pwd=z2lYvY83HCd5o4eGFxMKQXG3oejaaK.1>

The Clean Elections Review Board will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Clean Elections Review Board.

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1. Call to Order/Roll Call
2. Appeal-Notice of Decision
 - a. Karen Snyder is appealing the decision of the City Clerks Office to allow Robert Todd Morse to become a Clean Elections Candidate.

This is a continuation of the December 3, 2024 Meeting

3. New Business (5 minutes)
 - a. Elect a Chair for 2025
4. Next Meeting Date if Needed
5. Adjournment

**City of Portland, Maine
Clean Elections Review Board
NOTICE OF DECISION**

Appellant:	Karen Snyder
Candidate (Office Sought):	Robert Todd Morse (City Council, District 1)
Review Type(s):	City Clerk's Finding of No Violation (Sec. 9-71)
Date of Vote:	December 3, 2024

Findings of Fact

The Clean Elections Review Board reviews appeals under the Clean Elections Ordinance on a *de novo* basis. *See* Clean Elections Ordinance Sec. 9-70(j)(2). The Board therefore makes the following findings and conclusions.

1. The appellant in this appeal is Karen Snyder (the “Appellant”), a Portland resident, registered voter residing in the first City Council District, and a “qualified elector” as defined in Sec. 9-62(l) of the Clean Elections Ordinance (the “Ordinance”).
2. On September 24, 2024, the Appellant submitted an inquiry to the City Clerk’s Office, regarding then District 1 City Council Candidate Robert Todd Morse (the “Candidate”). The inquiry noted that the Candidate, who at the time of the inquiry, was a Certified Candidate under Sec. 9-64 of the Ordinance, was also the founder and registered agent of the Urbanist Coalition of Portland (“UCP”).
3. The Appellant’s inquiry asked: “How can D1 City Councilor Candidate, Todd Morse, take clean election money from the City of Portland when he is the registered agent and has publicly acknowledged his role of founder and president of the Urbanist Coalition Portland (UCP) that I believe is registered as a 501 c(4) which is a political non-profit that can be considered a PAC for dark money?”
4. In response to the inquiry, the City Clerk’s Office contacted the Maine Ethics Commission. The Ethics Commission opined that so long as UCP is/was not directing funds to directly support the Candidate’s candidacy, then no violation of the Ordinance had occurred. The Ethics Commission also noted that UCP was not registered as a PAC or BCQ and had not made any reported contributions during this election cycle. This information was communicated to the Appellant by email on October 4, 2024.
5. The Appellant responded that despite the City Clerk’s response she still had concerns that the UCP was indirectly using funds to support the Candidate.
6. The Appellant filed her appeal on October 16, 2024. The appeal alleged that the Candidate’s role as the registered agent and president of the UCP was a de facto contribution to the Candidate’s campaign by virtue of the Candidate’s “leveraging the goods and services for undisclosed funds donated to the political lobbying non-profit UCP.”

7. On November 18, 2024, the Clean Elections Review Board received a memorandum from the City Clerk, outlining the City Clerk's position on the Appeal. In relevant part, the memo states:

After consulting with the Maine Ethics Commission and reviewing Robert's campaign finance reports, it was determined that there had been no instances where the Urban Coalition Portland supported Robert or their City Council campaign financially. The Maine Ethics Commission said as long as this organization is not directly using funds to support Robert Morse as a candidate then there is no violation of the Clean Elections Ordinance, and is allowed to be a Clean Elections Candidate while being the President of the organization.

8. On December 3, 2024, the Clean Elections Review Board held a public hearing at which the Appellant, the City Clerk, and the Candidate were present and submitted documents and provided testimony. The Clean Elections Review Board was comprised of Peter Goldman, Chair, Maria Maffucci, and Phil Steele. The Clean Elections Review Board was represented by Benjamin T. McCall, Esq. Following the closure of the public hearing, the Board deliberated.

Conclusions of Law

Based on the foregoing findings, the evidence that has been submitted, and the testimony that has been presented by the parties and participants at the public hearing and is in the record of the Clean Elections Review Board, the Board concludes that:

1. **Jurisdiction:** The Board has jurisdiction to hear this appeal pursuant to Sec. 9-70(m)(4) of the Ordinance, as this appeal is from a finding of no violation by the City Clerk's Office.
2. **Timeliness:** The Ordinance does not provide a deadline for appeals to the Clean Elections Review Board to be filed. When an ordinance is silent on the deadline to take an administrative appeal, the Maine Supreme Judicial Court has established a common law 60-day deadline "from the date of the action complained of in which to appeal." *Boisvert v. King*, 618 A.2d 211, 213 (Me. 1992). Applying that standard here, the Appeal is timely, as it was requested 12 days after the City Clerk's decision.
3. **Standing:** The Appellant is a registered voter in the City of Portland is therefore a "qualified elector" as defined in Sec. 9-62(l) of the Ordinance. The Board considers qualified electors to also be interested parties, who have standing to file appeals under Sec. 9-70(m)(4) of the Ordinance. The Appellant therefore has standing to pursue this appeal.
4. **Evidence:** The Clean Elections Review Board accepted all evidence, written and oral, submitted prior to and at its December 3, 2024 public hearing. In doing so, the Clean Elections Review Board applies the standard of evidence set forth in the Maine Administrative Procedures Act, 5 M.R.S. § 9057(2): "Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs."

5. **Violation of Clean Elections Ordinance:** The Appellant bears the burden of proving that the City Clerk's decision was incorrect. *See* Clean Elections Ordinance Sec. 9-70(j)(2). Here, the Appellant has not met that burden of proof, as she has not demonstrated that the Candidate received any contribution – in cash or in-kind – from the Urbanist Coalition of Portland, after filing his Declaration of Intent to become a Certified Candidate under Portland's Clean Elections program. Absent affirmative proof of contributions, the City Clerk's decision that the Candidate had not violated the provisions of the Ordinance cannot be overturned.

Decision

As a result of the above, the Clean Elections Review Board hereby decides, by a vote of three (3) in favor to none (0) opposed that:

1. The City Clerk: (a) correctly determined that Robert Todd Morse had not received an unpermitted contribution from the Urbanist Coalition of Portland, and (b) correctly determined that Robert Todd Morse had not violated the provisions of the Clean Elections Ordinance.
2. The appeal of Karen Snyder is hereby DENIED.
3. This Notice of Decision is adopted and the Board authorizes its Chair to sign the same on behalf of the Board.

Dated: December 9, 2024

By:

Peter Goldman, Chair
Clean Elections Review Board,
City of Portland

NOTICE

Any party aggrieved by this decision may file an appeal in the Superior Court within 30 days of the date of the vote on this appeal, consistent with Rule 80B of the Maine Rules of Civil Procedure.