

February 20, 2011

Fiala accepted campaign funds from Inflection

Outgoing county executive backed gas-lease offers

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BINGHAMTON -- Broome County Executive Barbara J. Fiala accepted a \$1,050 campaign contribution from a Denver-based natural gas company that twice submitted lease offers for county gas rights, a review of campaign finance records shows.

Inflection Energy LLC sponsored a team at a golf tournament fundraiser for Fiala on Aug. 8, just a few weeks after the company's initial \$16 million was pulled by the county executive because it lacked support from legislators. Fiala's January campaign disclosure filing -- the most recent -- shows the contribution was deposited in her campaign account on Aug. 24. That was about a month before she announced a scaled-back, \$7.8 million offer from Inflection for less county acreage.

State election law does not prohibit the Fiala campaign from accepting donations from groups with business before the county and, as of mid-January, the \$1,050 represents a small portion of her \$162,000 campaign war chest. However, some questioned whether accepting the Inflection contribution was ethical.

"That's troublesome, and it's definitely something that (Fiala's) constituents need to know," said Susan Lerner, executive director of good-government group Common Cause New York. "That's why we have these kinds of (campaign finance) disclosures, because we want to be sure that an elected official is making a decision that benefits all of the constituents, and that there isn't a big sum on the scale of the decision-making process."

Fiala, who has been a leading supporter of local natural gas development since 2008, defended the donation, saying that her annual tournament attracts a variety of people and businesses.

"We have held this golf tournament since I was county clerk, and if you go through and look at it there are a lot of contractors and businesspeople who came to golf," said Fiala, a Democrat. "By the time you pay for the team and the meal, it's not all profit. It's a sponsorship. To pick (Inflection) out is, I think, a stretch."

Darcy Fauci, an organizing member of Fiala's campaign who also serves as deputy county executive, said the contribution allowed Inflection to have a sign at the event with its name on it, as well as four rounds of golf and food for five at the tournament. The net contribution to the Fiala campaign was \$600, Fauci said.

About 1,000 invitations to the fundraiser were sent out, including approximately 50 to the natural gas industry, according to Fauci. Gas-pipeline company Laser Northeast Gathering Co. also sponsored a team in the event.

"The committee solicits hundreds of individuals and businesses (both with relationships with the county and without relationships)," Fauci wrote in an e-mail. "The committee also receives many donations that are unsolicited."

Fiala, who plans to resign around April 1 to head the state Department of Motor Vehicles, was one of

the most public supporters of both Inflection offers, which would have paid the county 20 percent royalties on gas produced. She pulled the first proposal in June after it didn't have support from legislators. The second was shot down by the legislature by a 10-3 vote in late November.

Conflict of interest was at the center of a heated debate about the offers. Then-Legislative Chairman Daniel D. Reynolds, D-Vestal, barred four legislators from voting on the offers and discouraged them from discussing the matter because they stand to make a significant amount of money by leasing their privately owned land.

One of those legislators was Marchie Diffendorf, a Kirkwood Republican who said that on Sept. 27 he was served with an ethics charge for speaking out against the first offer. He said it was signed by Deputy County Executive Patrick Brennan.

Diffendorf, who did not vote on the second lease offer but spoke against it at a November legislative session, questioned the timing of the Inflection campaign contribution.

"The timing is very suspicious," said Diffendorf, who serves as chair of the Kirkwood Gas Coalition. "I'm not sure whether or not it was proper, and this is coming from the administration that filed ethics charges against me for speaking out and saying the Inflection deal was a bad one."

While she could not confirm or deny the charge against Diffendorf because such claims are confidential under Broome County Code, Fauci said comparing the legislator's situation with Fiala's is "apples and oranges."

"The county executive is not negotiating with gas companies for any personal gain. Mr. Diffendorf has announced on numerous occasions during legislative sessions that he is negotiating with gas companies for personal gain," she said. "Mr. Diffendorf's personal business is in conflict with county business. Barbara Fiala's situation is not analogous."

County Attorney Joseph Sluzar wrote a letter to Reynolds in May 2009 recommending legislators "avoid even the appearance of a conflict of interest" with any natural gas issues, though his letter did not make references to any positions in the executive's office. It was copied to Fiala and other members of the Broome administration.

"Legislators should also know that their ethical obligations to citizens extend beyond disclosure and recusal," Sluzar wrote. "Part of fulfilling that obligation is to accept no gifts from companies involved with development of the natural gas play."

Sluzar, who negotiated the Inflection offers as part of the Broome County Law Department, echoed Fauci's comments in an e-mail Saturday, noting that Fiala and her campaign committee are two separate legal entities. He said the Inflection donation does not present a conflict of interest.

"I do not see any competition between personal business and county business when a vendor makes a permitted contribution to a campaign committee," Sluzar wrote. "There is no conflict."

Good-government advocates agree donations to elected officials from companies seeking government business speaks to the need for campaign finance reform.

"A situation like this raises interesting questions, but that's not unusual in a campaign finance system that is inherently flawed," said Blair Horner, legislative director for the New York Public Interest Research Group. "New York's system is based on these kinds of relationships. The bulk of the money in this system comes from people who have business before government. They must be making donations because they think it has an effect, because why else would they do it?"

Fauci stressed that Fiala's campaign adheres to all pertinent election laws.

"It is Barbara Fiala's and pretty much every politician's right (via their committees) per election law to solicit and receive donations," Fauci said in an e-mail. "The committee has not and does not discriminate against any donor. And every single transaction is handled and documented by the guidelines laid out by New York State election law."

Additional Facts

FOIL request rejected

Under the Freedom of Information Law, the Press & Sun-Bulletin requested a copy of any written or electronic correspondences since April between the County Executive's Office or the County Law Department and any representatives of Inflection Energy.

In an e-mail Friday written by Aaron Martin, clerk of the legislature and the county records access officer, that request was denied "because according to the County Department of Law disclosing this information may impair an award of a contract."

The ruling will be appealed.
