



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

July 22, 1997

Chair Martin, Vice Chair Linett, Commissioner Franzese, Commissioner Ware, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Counsel James P. Wyse was absent.

1. Open Public Meetings Statement

Chair Martin called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., adequate notice of the meeting of the Commission had been filed with the Secretary of State's Office and distributed to the entire State House Press Corps.

The meeting convened at 11:00 a.m. in Trenton, New Jersey.

2. Executive Director's Report

A. Staff Activities

Executive Director Herrmann said that Systems Administrator Carol Neiman and Systems Operator Brenda Brickhouse will be enrolled in various computer classes this summer and fall.

The Executive Director reported that the new public room and do-it-yourself photocopier on the 13th floor have greatly enhanced the scope of disclosure for the media, public, and candidates using ELEC materials.

Executive Director Herrmann announced that Irene Szedlmayer has been promoted to the Associate Legal Director Position from the Assistant position.

The Executive Director said that on July 26 and July 27, 1997, he will be attending the American Society for Public Administration (ASPA) conference in Philadelphia.

He noted that he will be attending a computer seminar, presenting a paper on strengthening ethics agencies, and participating in the annual meeting of the Public Integrity Annual Editorial Board.

The Executive Director added that on July 28 and July 29, 1997, Deputy Legal Director Nedda G. Massar and Systems Administrator Carol Neiman will be attending a national electronic filing roundtable for ethics agencies.

Executive Director Herrmann said that on July 29, 1997, Legal Director Gregory E. Nagy and he will participate in the annual Northeastern Regional Conference on Lobbying (NORCOL) conference. He mentioned that he will be presenting again his paper on strengthening ethics agencies as well as making a report on recent lobbying law activity in New Jersey.

Executive Director Herrmann advised the Commission that on September 14 through September 17, 1997, Vice Chair Linett and he will be attending the annual Council On Governmental Ethics Laws (COGEL) conference in Edmonton, Alberta.

B. National Ethics News

According to the Executive Director, a recent national poll found that 72% of its respondents felt that "better enforcement of present [campaign finance laws] - not enactment of new ones - is [what] is needed." He said that most experts would agree that better enforcement is required but would also feel that so are tougher laws.

C. Budget Update

Executive Director Herrmann reported that the Commission's FY-98 budget is \$2,550,000. He said that the operating budget is \$1,920,000, up 36% from the budgets of the previous three years. According to the Executive Director, \$630,000 is for the Public Financing Program, including \$475,000 for operating funds, and \$155,000 for the ballot statement program.

Executive Director Herrmann said that the Office of Management and Budget (OMB) in the Department of the Treasury has indicated that it will consider providing additional funds for the Ballot Statement program if the county clerks can establish the need to do so.

D. Future Meetings before the General Election

August 22, 1997, at 11:00 a.m. (if needed)
September 9, 1997, at 11:00 a.m.
October 21, 1997, at 11:00 a.m.

3. Public Hearing Scheduled for the July 22, 1997 Commission Meeting

A public hearing was held at 11:15 a.m. on the Commission's proposed new rule, amendments, and recodification to implement a new law requiring lobbyists and legislative agents to give written notice of any benefit that a lobbyist or legislative agent provides to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch. Legal Director Nagy stated that a press advisory and mailing concerning the proposal were issued on July 1, 1997. Notices of the hearing also appeared in the New Jersey Lawyer and the New Jersey Journal. The proposal will be ripe for adoption at the September 9, 1997 Commission meeting.

The proposed amendments are at N.J.A.C. 19:25-20.11 and N.J.A.C. 19:25-20.12. The proposed new rule is at N.J.A.C. 19:25-20.13.

A Court Reporter was present to record the hearing, but no persons appeared to testify.

4. Selection of 1997 Gubernatorial General Election Debate Sponsors

Chair Martin indicated that eight applications to sponsor the two 1997 gubernatorial general election debates had been received. The applications were received from:

A. Alumni Association of the New Jersey Institute of Technology (NJIT) and Council of Higher Education of Newark (CHEN);

B. Comcast Network & Press Broadcasting Company (NJ 101.5);

C. League of Women Voters of New Jersey Education Fund;

D. New Jersey Network, WCBS-TV (NY), KYW-TV (Phila.), New Jersey 101.5, New Jersey League of Women Voters, Eagleton Institute of Politics (Rutgers University), Times (Trenton), Record (Hackensack), Press (Asbury Park), and the Record-TCI Network;

E. New Jersey State Chamber of Commerce, WWOR-TV UPN9, WPSG-TV UPN57 (Phila.), WMGM-TV (Atlantic City), Cable Television Network of New Jersey, New Jersey Broadcasters' Association (Radio), New Jersey Association of Chamber of Commerce Executives, Black Urban Alliance/African American Chamber of Commerce of New Jersey, Asian Indian Chamber of Commerce, Statewide Hispanic Chamber of Commerce of New Jersey, and New Jersey State League of Municipalities;

F. Star-Ledger (Newark), WNBC-TV (NY), WCAU-TV (Phila.), and News 12 New Jersey;

G. Suburban Cable and Courier Post (Cherry Hill); and,

H. William Paterson University of New Jersey, WCBS-TV (NY), North Jersey Newspapers, and Garden State Newspapers Group.

In order for an applicant to be selected, the application for sponsorship had to meet the following three criteria:

- A. A sponsor must be unaffiliated with any political party or holder of or candidate for public office;
- B. A sponsor must agree not to endorse any candidate until the completion of any debate sponsored by the organization; and,
- C. A sponsor must have previously sponsored one or more televised debates among candidates for Statewide office since 1976, or be an association of two or more separately owned news publications or broadcasting outlets having between them a "substantial readership or audience in this State...."

Each of the applicants has stated that it is unaffiliated with a political party or holder of or candidate for public office and that it will not endorse any candidate in the pending general election until the completion of any debate sponsored by the organization. The New Jersey State Chamber of Commerce has a political action committee, the "Chamber PAC," which does contribute to various legislators and to United States Senate candidates. The "Chamber PAC" does not, however, endorse a candidate for Governor in either the primary or general election. The debate application also stated that the PAC is an independent entity. Staff recommended that this separation of the Chamber and its PAC, and the fact that the PAC does not endorse a gubernatorial candidate were sufficient to satisfy the requirement that the sponsor be unaffiliated with any political party, candidate, or officeholder.

Five of the applicants met the third criterion either because they had experience as sponsors or co-sponsors selected by the Commission or because they may have also sponsored other debates for Statewide office since 1976. They are: the League of Women Voters; New Jersey Network; the New Jersey Chamber of Commerce; and the Star-Leger (Newark). WCBS-TV, a co-applicant with William Paterson University, was selected by the Commission as a co-sponsor of a 1993 general election debate.

Two of the applicants, the Comcast Network and Press Broadcasting applicant and the Suburban Cable and Courier Post (Cherry Hill) applicant, were associations of separately owned news organizations.

The application received from the Alumni Association of NJIT and CHEN did not provide evidence of experience in sponsoring televised debates among candidates for Statewide office since 1976 and is not an association of news organizations as required by N.J.S.A. 19:44A-46. It therefore did not meet the statutory criteria for gubernatorial debate sponsorship.

The general election debates must occur between September 16, 1997 and October 24, 1997. The application received from Comcast Network and Press Broadcasting Company indicated that the debate will be conducted on October 30, 1997, a date outside the statutory limits. The application did not comport with the debate criteria.

Commissioner Ware asked if any of the sponsor applicants were incapable of reaching every New Jersey household with their broadcast debate. She expressed a particular concern about reaching South Jersey voters.

None of the sponsors responded in the negative. Each indicated that their broadcast would reach every household.

Commissioner Franzese asked the sponsors to provide information about debate format, about promotional activities, and about any conflicts with major sporting events.

Mr. Gene O'Brien, representing the Alumni Association of NJIT and CHEN, responded that: he would be working with the New Jersey Arts Center in Newark, a format would be worked out with the candidates, and he knew of no conflict with any major event.

Mr. Pat Scanlon, representing the Comcast Network, and Mr. Nicholas Alexander, representing NJ 101.5, spoke on behalf of their application.

Mr. Scanlon indicated that the debate format would be one of reporters questioning the two candidates. He said that Comcast had the ability to cross promote on 21 cable networks throughout the State.

Mr. Alexander said that NJ 101.5 has an audience consisting of approximately 750,000 to 800,000 listeners statewide. He said that the time and place of the debate did not conflict with any major sporting event. Vice Chair Linett asked if there were commitments from television outlets. Mr. O'Brien said there were no definite commitments yet.

Ms. Catherine Becker, representing the League of Women Voters, and Ms. Linda Munich, representing WPVI-TV Philadelphia, explained their application.

Ms. Becker noted that the League has a long history of sponsoring debates. She said that the format would consist of a moderator and questioners from the press. Ms. Becker said that plans were being laid for promoting the event, which included TV listeners.

Ms. Munich said that during the last gubernatorial debate in which WPVI was involved, over 1.3 million households tuned in.

Mr. Bill Jobes spoke on behalf of the New Jersey Network Consortium application. Mr. Jobes indicated that there would be statewide coverage and internet access during the debate.

Ms. Joan Verplanck, representing the Chamber of Commerce, and Mr. Ernie Onastis and Mr. Will Wright, representing WWOR-TV, presented their application.

Ms. Verplanck noted that the Chamber has sponsored many debates in the past. She said the Chamber expected a live audience of 1,000 people.

Mr. Ernie Onastis, who would serve as moderator, deferred to Mr. Wright, the news director. Mr. Wright said that a panel of journalists would serve as questioners. He added that the candidates would also be allowed to question each other. Mr. Wright said also that WWOR-TV would work with a coalition of minority broadcasters.

Mr. Josh McMahon, representing the Star-Ledger (Newark), News 12 New Jersey, WNBC-TV (NY), and WCAU-TV (Phila.), spoke on behalf of the application submitted by this consortium. Mr. McMahon said that the debate would be held on September 18, 1997, a date which would initiate the discussion of gubernatorial issues in New Jersey. He said that a panel of journalists would ask questions and that the candidates would have the opportunity to ask each other questions.

He said that there were no conflicts with major sporting events and that the nightly news would be a good lead in to the debates.

Mr. Skip Hiday, Mr. Alan Gunther, and Mr. Alan Stevens, represented the Suburban Cable and Courier Post (Cherry Hill) application. Mr. Hiday said that it is important for South Jersey to have coverage. He indicated that the debate would be 90 minutes and have three parts to it. Journalists would have the opportunity to question the candidates and candidates would have the opportunity to question each other. As an added feature, the debate format would include questions from the public.

Mr. Dennis Santillo of William Paterson University and Ms. Diane Haines of North Jersey Newspapers, discussed the William Paterson University of New Jersey application.

Mr. Santillo indicated that the debate will be held on Sunday, October 16, 1997, between 5 p.m. and 6 p.m. He said that he had checked and that there were no late football games on that Sunday. He said there would be no conflict with the NFL regarding the time of the debate.

Mr. Santillo said that the debate would be held at William Paterson University and that approximately 1,000 people would be in the audience. He said that the format has not yet been developed.

Chair Martin asked if any of the applicants were locked into a time and date.

None of the applicants indicated that they were locked into a time and date.

Chair Martin said that he would like to move ahead with other business before proceeding with a discussion and decision regarding debate sponsorship. He indicated that the Commissioners needed time to digest the applications and the oral comments concerning them.

5. Approval of Public Session Minutes of June 26, 1997

Vice Chair Linett inquired about the statement in Item 4, a discussion of Advisory Opinion 03-1997, of the June 26, 1997 minutes, which indicated that the Cary Edwards 1993 primary election committee "cannot be dissolved." Legal Director Nagy explained that as long as the committee has outstanding obligations in excess of \$1,000.00, it must continue to file reports unless there is no prospect of repayment and the committee winds up its business and all debts are discharged.

On a motion by Vice Chair Linett, seconded by Chair Martin and passed by a vote of 4-0, the Commission approved the Public Session Minutes of June 26, 1997.

6. 1997 Primary and General Election Public Matching Fund Submissions

Deputy Legal Director Massar reported on the 1997 primary and general election public matching fund submission:

McGreevey 1997 General Election Submission 1

The public financing staff concluded its review of the first public matching fund submission filed by 1997 gubernatorial general election candidate James E. McGreevey. On the basis of its review of the submission, public matching funds in the amount of \$394,892.00 will be deposited into the separate public funds account established through the Department of the Treasury.

Candidate McGreevey's July 7, 1997 first application for matching funds contained \$293,146.00 in net contributions submitted for match. Complete review of all items submitted for match resulted in ineligibility of 36 contribution items representing \$26,700.00. After subtraction of the \$69,000 of contributions which is not matched, it was determined that \$197,446.00 was eligible to be matched at the 2:1 ratio. The maximum in public funds which a 1997 general election candidate may receive is \$4.6 million.

Whitman 1997 General Election Submission 1

The Whitman campaign filed its first submission for 1997 general election public matching funds on July 21, 1997. The application for matching funds contained \$1,058,725.00 in net contributions submitted for match. Staff will report to the Commission at the September 9, 1997, meeting on its review of the submission.

Murphy 1997 Primary Election Submission 10

On June 23, 1997, the Murphy 1997 primary election campaign filed a submission for matching funds which reported \$5,925.00 in contributions eligible for match. Because the submission did not contain \$12,500.00 in contributions eligible for match, as required by N.J.S.A. 19:44A-34, staff advised the campaign that it could not process the submission as filed. Staff further advised the campaign that it could submit documentation for additional contributions eligible for match on a future submission date, and when all eligible items equaled or exceed the \$12,500.00 threshold, the items would be reviewed for match by staff.

On July 7, 1997, the Murphy campaign filed additional contributions for match, bringing the total over the \$12,500.00 threshold.

Murphy Campaign Submission 10

Submission #	Total \$ Submitted for Match*	Total \$ Eligible for Match at 2:1	Total Amount Deposited	Error Rate
10	\$16,475.00	\$12,725.00	\$25,450.00	14.30%

*All items were contributions resubmitted for match from prior submissions.

Based upon information reported in the 1997 primary election 20-day postelection report, filed June 23, 1993, the Murphy campaign shows a continuing need for additional 1997 primary election public funds in the postelection setting. With the addition of the public funds deposited on June 26th, the campaign has remaining outstanding obligations of approximately \$36,000.00 in excess of cash on hand.

On its 29-day and 11-day preelection reports, the campaign disclosed expenditures of non-public funds in excess of the \$25,450.00 to be deposited for Submission 10, which may be reimbursed with public funds pursuant to N.J.A.C. 19:25-16.25(e). Staff recommended that Submission 10 matching funds totaling \$25,450.00 be deposited for the Murphy primary election campaign.

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission approved the distribution of public funds to the McGreevey and Whitman general election campaigns and to the Murphy primary election campaign.

7. Advisory Opinion Request No. 03-1997

Legal Director Nagy noted that Advisory Opinion No. 03-1997, submitted by Mr. Douglas Doyle, Esq. on behalf of gubernatorial candidate Cary Edwards and the Edwards '93 Committee has been withdrawn.

Legal Director Nagy recommended that a letter be sent to Mr. Doyle addressing the Committee's continuing obligation to file reports and the requirement to repay funds to the State if any excess funds become available after its outstanding obligations are satisfied. The Commission reviewed the proposed letter and directed it be sent.

8. Resolution to Go Into Executive Session

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

- A. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public no later than 35 days after mailing.
- B. Investigative Reports of possible violations, which reports will not become public. However, any complaint generated as the result of an Investigative Report will become public no later than 50 days after mailing.
- C. A report on written requests for investigations of possible violations, which report will not become public. However, any complaint which may be generated as a result of a request for an investigation will become public no later than 50 days after mailing.

9. Return to Public Session

On a motion by Commissioner Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to return to public session.

10. Selection of 1997 Gubernatorial General Election Debate Sponsors

Chair Martin expressed his appreciation to all sponsors for submitting such quality applications. He said that the selection of debate sponsors is among the most difficult decisions the Commission must make.

Chair Martin asked the Commissioners for their comments and recommendations.

Commissioner Ware stated that since she was a South Jersey resident she was acutely aware of the need for coverage in this area of the State. She suggested that the Commission should consider the New Jersey Network proposal. Commissioner Ware stated also that the Commission should look carefully at the scheduling in that it would seem to be a difficult situation for the candidates to have two debates in one week.

Commissioner Ware said also that she believed live radio simulcast is important.

Vice Chair Linett said that his recommendation would be for the New Jersey Chamber of Commerce application to be chosen.

Commissioner Franzese recommended that debate sponsorship be given to the New Jersey Chamber of Commerce application and to the Star-Ledger (Newark) application.

Chair Martin recommended that the William Paterson University of New Jersey application be selected.

Chair Martin polled the Commissioners asking each to vote for two applicants. He said that the two receiving the most votes would be chosen.

After polling by the Commissioners, William Paterson University received three votes, the New Jersey Chamber of Commerce received three votes, the Star-Ledger (Newark), received one vote, and New Jersey Network, received one vote.

On a motion by Vice Chair Linett, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission selected William Paterson University and its co-sponsors and the New Jersey Chamber of Commerce and its co-sponsors for debate sponsorship.

11. Adjournment

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz