



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

June 24, 1999

Chair Martin, Vice Chair Linett, Commissioner Franzese, Counsel Wyse, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Commissioner Ware was not present at the meeting.

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.

2. Executive Director's Report

A. Commission News

Executive Director Frederick Herrmann reported that Commissioner Paula Franzese moderated a Forum at Seton Hall Law School featuring Congressman Peter Rodino commenting on the impeachment process. He added that the Congressman was uniquely qualified to compare the Watergate scandal with President Clinton's impeachment. According to the Executive Director, the program, which was of historical importance, was reprinted in an article in the Seton Hall Law Review.

B. Staff Activities

Executive Director Herrmann said that Director of Compliance and Information Evelyn Ford reported that at ELEC's two informational seminars held on April 6 and April 29, 1999, she received "much positive feedback about the agency."

Executive Director Herrmann said that on April 20, 1999, five staff members of the Federal Election Commission (FEC) visited ELEC to study the new computer

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system. According to Executive Director Herrmann, they were particularly interested in the automation of the auditing process. He said that Director of Systems Administration Carol Neiman, Director of Compliance and Information Ford, Deputy Legal Director Massar, Associate Director of Review and Investigation Shreve Marshall, and Frank Roberts from Automated Concepts Incorporated (ELEC's Vendor) spent one-half of a day with the FEC representatives. Executive Director Herrmann said that it is a real tribute to ELEC's staff and the Commission's vendor that the most important disclosure agency in the nation is looking to ELEC for computer guidance. He noted that the FEC staff said that it was very impressed by the work that has been done at ELEC in recomputerization.

Executive Director Herrmann mentioned that the office was repainted and replastered during the weeks of April 26 and May 3, 1999.

Executive Director Herrmann advised the Commission that on May 18, 1999, he participated in an international conference call of the Council on Governmental Ethics Laws' (COGEL) Awards Committee. He reported that the committee decided on recipients for the COGEL Award, the Outstanding Service Award, and the Honorary Membership Award.

The Executive Director informed the Commission that on May 20, 1999, Representative Greg Vitale of Pennsylvania visited ELEC for advice on how to set up a public financing program and to study the new computer system. Executive Director Herrmann said that Deputy Legal Director Massar and he explored the various aspects of the New Jersey program, which has truly become a national model. Executive Director Herrmann said that both Deputy Director Brindle and he had testified before committees in the Pennsylvania Legislature about the New Jersey Public Financing Law in the past. Executive Director Herrmann noted that Director of Compliance and Information Ford and he demonstrated ELEC's enhanced computer capabilities.

The Executive Director announced that on June 14, 1999, Associate Director of Review and Investigation Marshall and Assistant Compliance Officer Amy Davis conducted a seminar at the Mary Roebling Building on how to read campaign reports for 50 FBI agents who are involved in the Bureau's Corruption Unit.

Executive Director Herrmann advised the Commission that on June 17, 1999, he spoke to the Legislative Committee of the Chemical Industry Council about complying with the Lobbying Law. He informed the Commission that the NORCOL Lobbying Guidebook, published by the Northeastern Regional Conference on Lobbying and ELEC, will be listed as a reference in the next edition of the FEC's Disclosure and Election Directory. He stated that a copy will be made available to researchers in the FEC's Public Records Office. According to the Executive Director, FEC staff have called the Guidebook "a very valuable resource for those interested in lobbying activity and laws."

Executive Director Herrmann reported that Richard G. Smolka, the editor of the national newsletter Election Administration Reports, praised ELEC's Annual Report as one of the best he has seen. He said that Mr. Smolka was particularly impressed with the clarity in which it laid out who we are, what we are doing, and where we are going.

He added that it is great to receive this kind of recognition for Deputy Director Brindle, the report's project manager, and all of the staff members who work with him on it. Executive Director Herrmann also mentioned that the newsletter also contained a feature story on ELEC's recommendation that the Legislature conduct a study of the effectiveness of the Gubernatorial Ballot Statement Program and ELEC's plan to place such statements on its website for the 2001 election.

The Executive Director mentioned that a committee treasurer wrote to him that Assistant Compliance Officer Pamela Hamilton, who recently left the Commission for a new job opportunity, was "courteous, helpful, and professional; a lifesaver." He said that all on staff will miss Pam and wish her well in the future.

C. Recomputerization

Dr. Herrmann reported that the public room was reorganized on June 8, 1999, to create three computer stations the public can use to access ELEC's web site, which will post all candidate reports starting around Labor Day. He said that the site already contains extensive lobbying data from the latest filings.

Executive Director Herrmann noted that on July 1, 1999, a list of complaints and final decisions will be placed on ELEC's homepage in addition to appearing on the Flashfax system. He said that this addition will better enable the media and public to keep track of ELEC's enforcement activity.

The Executive Director has announced that Associate Review Officer Brett Mead has developed a "hyperlink" topical index of investigative reports covering 1996 through 1998 arranged under some 30 topics. He said that it is a great resource for retrieving prior investigative and legal material and that in the future, staff is hoping to add "hyperlink" complaints. The Executive Director added that Associate Review Officer Mead did this project on his own initiative and has made an important contribution to the work of the Commission.

Executive Director Herrmann informed the Commission that the Compliance and Information staff will soon have available an automated telephone conversation record function. He said that this part of the new computer system will allow the staff to place electronically in each candidate's file all records of telephone conversations with its members. He noted that the Section's efficiency in maintaining key office records will be greatly enhanced.

D. Summer Meeting Schedule

July 21, 1999 at 11:00 a.m.

August 18, 1999 (open date if needed)

September 15, 1999 at 11:00 a.m.

3. Approval of Public Session Minutes of April 21, 1999

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 3-0, the Commission approved the Public Session Minutes of April 21, 1999.

4. Public Hearing on Proposed Regulations Concerning Public Financing of the Gubernatorial Primary and General Elections

A public hearing, recorded by a Court Reporter, was held regarding proposed regulations concerning Public Financing of Gubernatorial Primary and General Elections. Dr. Leonard T. Flynn submitted written and oral testimony, the latter of which was recorded by the Court Reporter. The Commission adjourned the public hearing after Dr. Flynn's testimony in order to hear additional witnesses who might appear later.

5. Adoption of Proposed New Rule and Amendment Concerning Contributor Information

The proposed regulations include a definition of the term "contributor," and a new rule at N.J.A.C. 19:25-10.15, Contributions by check. The new rule consists of subsection (a), which contains seven different categories of contributors, and subsection (b), which requires the candidate or committee to identify the correct contributor within ten days and before the contribution check can be deposited by the candidate or committee.

Legal Director Nagy explained that written comments were received in connection with this proposal, which comments in particular objected to the proposed 10-day rule at subsection (b) as placing a burden on candidates who would have to return contributions if they could not determine the correct contributor within 10 days. The comments were circulated to the Commission. Staff therefore recommended adoption of the definition of "contributor" at N.J.A.C. 19:25-1.7 and N.J.A.C. 19:25-10.15(a) as proposed, and that subsection (b) not be adopted. Staff noted that adoption of the 10-day rule as proposed in subsection (b) would result in a substantial departure from current practice that may not be justified at this time. Staff indicated that if the Commission decided to adopt the proposal, in whole or with the recommended modification, and assuming that reproposal will not be required, the new regulations will be filed with the Office of Administrative Law (OAL) on June 25, 1999 and become effective on July 19, 1999.

Vice Chair Linett, stating that he has supported this position, moved the staff recommendation, which was seconded by Commissioner Franzese. On a vote of 3-0, the Commission approved the staff recommendations, dropping subsection (b) from the proposal and directed staff to file the Certificate of Adoption and Promulgation with the OAL.

6. Proposed Rules Requiring Use of Ink or Typeface

This proposal is at N.J.A.C. 19:25-1.10, Preparation of reports, and requires that reports be printed in ink, typed or electronically generated in a format approved by the Commission.

Executive Director Herrmann explained that the proposal was necessary to promote clear images of campaign reports that will be viewed by the public on the Internet.

Vice Chair Linett said that he had concerns about requiring pre-approval on electronic formats. Also, he said that the Commission should be more specific in terms of the size of type it is requiring.

Legal Counsel Wyse suggested that the regulation include the words "black, not less than 10 point, using legible typeface."

Legal Directory Nagy stated that staff will check with ACI, Inc., the computer consultants, as to whether ten-point type is a preferred type size and report back to the Commission in July. Also, he indicated that he will check with the OAL whether or not insertion of text concerning a specific type size and deletion of pre-approval of electronic forms will require reproposal. A public hearing on the proposal will be conducted at the July 21, 1999 meeting.

7. Resumption of Public Hearing on Proposed Regulations Concerning Public Financing of the Gubernatorial Primary and General Elections

Chair Martin asked whether or not any other individuals had arrived who wished to testify concerning the proposed regulations. No individuals asked to be heard.

Deputy Legal Director Massar indicated that the proposal will be ripe for adoption at the July 21, 1999 Commission meeting.

Chair Martin indicated that the hearing was closed. A transcript of the hearing will be available for public inspection.

8. Resolution to Go Into Executive Session

On a motion by Commissioner Franzese, seconded by Vice Chair Linett and passed by a vote of 3-0, 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.

9. Return to Public Session

On a motion by Commissioner Franzese, seconded by Vice Chair Linett and passed by a vote of 3-0, the Commission voted to return to Public Session.

10. Implementation of New Law

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Legal Director Nagy explained that a new law concerning “testing the waters” reporting will become effective on July 15, 1999, and that staff expected it might receive requests for advisory opinions concerning implementation of the new law prior to that date but before the July 21, 1999 Commission meeting.

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 3-0, the Commission authorized staff to grant a 10-day extension from the July 21 meeting to any heretofore Gubernatorial “testing the waters candidate” who is required to undertake any reporting or other action as of July 15, 1999, but who has asked for an advisory opinion as to how to proceed.

11. Adjournment

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 3-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz