

N. J. ELECTION LAW ENFORCEMENT COMMISSION

MINUTES

MARCH 18, 1976

PRESENT

Frank P. Reiche, Chairman
Sidney Goldmann, Vice-Chairman
Josephine S. Margetts, Member
Archibald S. Alexander, Member
Edward J. Farrell, Legal Counsel
Herbert Alexander, Consultant
Lewis B. Thurston, Executive Director

ABSENT

NONE

The meeting convened at 10:15 a.m.

Pursuant to the Open Meetings Law, P.L. 1975, c.231, Annual Notice of the meetings of the Commission was filed with the Secretary of State's Office, copies posted in the State House Annex, copies were mailed to the Newark Star Ledger and the Philadelphia Bulletin and the entire State House Press Corps.

1) Open Meetings Law

The procedure regarding complaints was discussed. It was decided to continue the discussion in greater detail at the April 15 meeting of the Commission. On Motion of Vice-Chairman Goldmann, seconded by Chairman Reiche, the Commission agreed that Commission voting on questions of whether a violation of the Act has occurred in a particular case and what penalty should be assessed therefor will be in public session while Commission discussions regarding these questions will be in executive session. (Vote 4-0). It was agreed that it may be desirable at the time of the vote in the public portion of such determinations for the Commission members to indicate the rationale for their votes.

On motion of Vice-Chairman Goldmann, seconded by Chairman Reiche, the Commission agreed that Commission votes to hold a public hearing and appoint a hearing officer will be conducted in public session while discussions regarding these questions will be in executive session. (Vote 3-1) Mr. Alexander dissenting. The question of whether Commission determination not to hold a public hearing should be made in public or executive session was not decided.

2) Availability of Investigator's Reports

An extensive discussion ensued. There seemed to be some agreement that a proper policy might be to permit the facts developed in an investigation, but not the investigator's analysis, conclusions or recommendations, to be discoverable upon request, by the respondent in connection with a hearing. The Commission requested Mr. Farrell to draft guidelines regarding those matters for discussion at the next Commission meeting.

3) Minutes of the March 3 Commission Meeting

Approved with the following amendment to page one, item #1 (delete; insert the following instead):

"Chairman Reiche paid tribute to the late Florence Dwyer for her valuable service as a former member of the Commission. On motion of Vice-Chairman Goldmann, seconded by Mrs. Margetts, the Commission similarly paid tribute and directed the Chairman to send a letter to her family expressing the Commission's sympathy at her death and appreciation for siad valuable service. (Vote 4-0)"

4) Atlanta Conference (March 4-6, 1976)

Executive Director, Lewis B. Thurston, reported on the 2nd Annual Conference on Campaign Finance and Ethics held in Atlanta, Georgia on March 4-6, 1976. Mr. Thurston found the Conference to be interesting and beneficial, especially with respect to complaint procedures used in other states, and analysis of the Buckley v. Valeo decision.

5) ELEC BUDGET

Chairman Reiche and Mr. Alexander reported on their meeting with Governor Byrne on March 17 regarding the Governor's proposed budget for Election Law Enforcement Commission. They indicated that they felt encouraged by the Governor's indicated support for a higher level of appropriation. Concern was expressed by Mr. Alexander and others that the Election Law Enforcement Commission was not informed of what the Governor would recommend for Election Law Enforcement Commission prior to the formal promulgation of the budget document.

Mr. Thurston informed the Commission of a memorandum from the Director of the Division of Budget and Accounting to him regarding the method of compensating Mr. Farrell regarding legal services. Mr. Thurston was requested to obtain further information about the various alternatives.

6) Expenditure Limitation

Mr. Thurston indicated the need for a policy statement on this subject to be communicated as soon as possible to candidates in the May municipal election, county and municipal clerks and other election officials, and the press and public. On motion of Mr. Alexander, seconded by Chairman Reiche, it was agreed that in the absence of the requested opinion on this matter from the Attorney General and based on Counsel to Election Law Enforcement's opinion, the Executive Director should notify the candidates in the May municipal election, and the county and municipal clerks by letter, and the public by press release, that the Election Law Enforcement Commission is precluded from seeking to enforce the expenditure limits of Section 7 of the Act because of the U. S. Supreme Court decision in Buckley v. Valeo and, thus, those limitations would not be in effect for purposes of the May election. (Vote 4-0)

- 7) N. J. Harris for President Committee; and Opinion Requests (O-33 and O-34-75 - Assemblyman Spizziri)
Mr. Farrell indicated that drafts of advisory opinions are being typed and will be ready for the next Commission meeting.
- 8) Status Reports on Audits and County Committee Annual Reports
Mr. Thurston reported on the status of audits of state, county and major municipal committees. He also reported that all 1975 annual reports for county committees have been filed except for the Bergen and Gloucester County Democratic Committees.

The Executive Director also reported on conversations with the editor of N. J. Magazine, John Kolesar and a reporter for same, Russell Wilkenson, about an article which appeared in the February, 1976 edition.

- 9) McGeoy, Greenblatt & Weaver v. Camden Cty. Democratic Committee (C-315-75) Deferred until April 1 Commission Meeting.
- 10) Reconsideration of Fine for Willis Swales
On February 9, 1976, Mr. Swales, a candidate in the 1975 Primary Election, was fined \$50 for filing 128 days late. At Mr. Swales request, the records were checked and it was discovered Mr. Swales to have filed only 25, instead of 128, days late. Therefore, the Commission reconsidered the case and reduced the fine to \$25 on motion of Vice-Chairman Goldman, seconded by Mr. Alexander. (Vote 4-0).
- 11) Democratic Committee of Bergen County v. NCPAC (C-315-75)
The Commission decided to take no action at this time with respect to whether the National Conservative Political Action Committee would be required to file an annual report, on the grounds that its activities to date, in light of the facts presently available to the Commission, do not result in its classification as a political party committee. Motion by Chairman Reiche; seconded by Mrs. Margetts (Vote 4-0)
- 12) Rudolph Wolf vs. Estelle Greenberg (C-25-75)
A complaint had been received in the Commission offices from Mr. Wolf, stating that Dr. Estelle Greenberg's May Municipal filings for 1975 were late filings. The first report was filed four days late, the second filing was one day late, and the third was two days late. After consideration of the Commission, Chairman Reiche moved that this matter be dismissed and that Dr. Greenberg be admonished to submit all future filings in proper and timely fashion. (Vote 3-1) Commission Alexander requested a reprimand)
- 13) Commission v. Paterson Taxpayers Association
The Commission proposed the appointment of Barry H. Evenchick as Trial Counsel. Mr. Daniel Matyola, assigned as Trial Counsel at the March 3 meeting, declined the case. Mr. Farrell was asked to contact Mr. Evenchick.
- 14) Expansion of the Hearing Officer Panel
Mr. Farrell noted that he had spoken with the President of the N. J. Bar Association about the subject and the possibility of submitting names to the Commission of potential hearing

- 14) (Contd.)
Officers and Trial Counsel. Mr. Farrell will confirm the discussion in writing.
- 15) ELEC v. Herbert Blakely (C-333-75) and ELEC v. Edward Carter (C-329-75)
Discussion was held with respect to those persons who are served subpoenas to appear before a hearing and do not appear. Mr. Blakely was served with a subpoena and did not appear. Mr. Carter was also served and did not appear. It was agreed that if no personal service on the respondent was possible, the best notice should be given by leaving a notice of hearing at the respondent's residence with someone over age 14, proceed to have the hearing and resolve the issues.
- 16) Schedule of ELEC Case Determination
It was agreed that as a general policy all allegations relating to the same complaint or subject matter be resolved and answered publicly at the same time and not separately.
- 17) Gerald Warner v. West Long Branch Rep. Committee (C-314-75)
Deferred until the April 1, 1976 meeting.
- 18) Standardized Hearing Officer Form
This was submitted to the Commission in draft form for their information and consideration. Amendments were suggested by Mr. Farrell and noted by the Commission. The Commission requested that the amended form be copied and given to them at the next Commission meeting.

Meeting was adjourned at 3:10 p.m.

Respectfully submitted,



Lewis B. Thurston, III
Executive Director