



State of New Jersey

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Chairman

WALTER F. TIMPONE
Vice Chairman

AMOS C. SAUNDERS
Commissioner

ELECTION LAW ENFORCEMENT COMMISSION

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Compliance Director

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PUBLIC SESSION MINUTES

April 9, 2013

Vice Chairman Timpone, Commissioner Saunders, Legal Counsel Matthews, and senior staff were present. Associate Legal Director Gail L. Shanker and Director of Review and Investigation Shreve Marshall were also present. Chairman DeFilippis participated via telephone. Assistant Review Officer Lovinsky Joseph was present for the purpose of recording the minutes. Legal Director Hoekje was absent.

The Public Session Minutes will be available online in the Commission's website at: <http://www.elec.state.nj.us>.

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

1. Open Public Meetings Statement

Chairman DeFilippis 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. It was also posted on the Commission's website.

2. Approval of Public Session Minutes of March 19, 2013

On a motion by Commissioner Saunders, seconded by Chairman DeFilippis, and passed by a vote of 3-0, the Commission approved the Public Session Minutes of March 19, 2013.

3. Executive Director's Report

A. Pay-to-Play Analytical Press Release

Executive Director Brindle informed the Commissioners of a pay-to-play analytical press release issued by the Commission yesterday. He reported that in 2012, public contractors had made \$7.6 million in contributions, a drop of 23 percent from 2011. The Executive Director further reported that public contracts totaled \$5.7 billion in 2012, a 7 percent increase attributable to Hurricane Sandy reconstruction.

Executive Director Brindle noted that much of the decline in contractor spending was linked to a 41 percent decline in contributions to PACs. He stated that this decline in contributions to PACs was brought about by increased media scrutiny.

B. Remote Training Sessions

The Executive Director informed the Commissioners of recent off-site training sessions. He reported that staff had held a session for the Passaic County Republican Party on April 4, and would hold training sessions for the Monmouth County Democrats on April 11, the Bergen County Republicans on April 18, and a joint session for political parties in Hunterdon, Warren, and Somerset County on April 22.

C. New Jersey News Coverage

Executive Director Brindle informed the Commissioners of a report published by Dr. Matthew Hale of Seton Hall University, and presented by Ingrid Reed, former director of the Eagleton Institute, concerning television coverage of New Jersey issues. The Executive Director stated that the report named NJTV as the network that provides the most coverage of New Jersey issues, and added that most other network coverage was about crime. He noted that 89 percent of NJTV news stories concerned New Jersey, as opposed to 17 percent for WNBC and 24 percent for WPVI.

D. PFD Analysis

Executive Director Brindle stated that the Commission would issue an analytical press release relevant to PFD (Personal Financial Disclosure) submissions in April. He noted that this would be the first time PFD filings will be available online.

E. Legislation

The Executive Director reported on the status of pending legislation relevant to the Commission. He stated that Bill A-3863, mandating disclosure for independent expenditure-only committees, and Bill S-2585, regulating local lobbying, had not had any movement for the time being. Executive Director Brindle noted that both bills followed legislative recommendations made by the Commission.

F. Federal Cases

The Executive Director informed the Commissioners of the decision rendered by the U.S. District Court for the District of Columbia in the case of Wagner v. FEC, which upheld a prohibition on federal contractors making contributions to federal candidates, parties, and political committees. He noted that the plaintiffs will seek an appeal with the District of Columbia Court of Appeals.

G. 2012 Annual Report

Executive Director Brindle presented the Commissioners with the 2012 Annual Report, noting that its recommendations remained unchanged from last year. He informed the Commissioners that their approval was required in order to deliver the Annual Report to the Legislature by the May 1st due date.

On a motion by Commissioner Saunders, seconded by Chairman DeFilippis and passed by a vote of 3-0, the Commission approved the 2012 Annual Report.

H. Reporting Threshold

The Executive Director stated that in response to a Star-Ledger article highlighting how the Birdsall engineering firm had hidden large contributions to elected officials by using disbursements of \$300 or less, staff would look into whether the Commission should eliminate or reduce the \$300 threshold for identifying contributors.

Deputy Director Donohue noted that most states have a reporting threshold closer to \$100, and that Connecticut's is \$50. He added that proponents of lower reporting thresholds claim lower thresholds reduce circumvention of campaign finance regulations, while opponents claim this produces an undue burden on smaller committees.

Executive Director Brindle stated that he did not want the Commission to be pressured into taking hasty action, and understood both sides.

Vice Chairman Timpone indicated that the Commission should look at the pros and cons of reducing the reporting threshold, and expressed his opinion that \$300 was a *de minimis* amount.

I. Summer Meeting Schedule

- May 21, 2013 at 11:00 a.m. in Trenton;
- June 18, 2013 at 11:00 a.m. in Trenton; and,
- July 16, 2013 at 11:00 a.m. in Trenton.

The Vice Chairman welcomed Associate Legal Director Gail Shanker to the meeting.

Assistant Legal Director Shanker thanked the Vice Chairman for his greeting.

4. Report on 2013 Gubernatorial Public Financing Program

Compliance Director Amy Davis presented her report on the 2013 Gubernatorial Public Financing Program. She informed the Commissioners that Candidate Barbara Buono filed her third submission for 2013 primary election matching funds on March 26, 2013 containing \$55,525 in contributions.

Director Davis reported that staff completed its review of Candidate Buono's third submission and issued public funds totaling \$103,626 on April 2, 2013. She noted that to date, Candidate Buono has received public funds totaling \$787,923.38.

The Compliance Director indicated that staff will report to the Commission at its meeting on May 21st on the status of any submissions received.

Compliance Director Davis further indicated that the deadline for candidates to apply for primary election public matching funds was April 1st, and that the statute requires a minimum of two participating candidates in order to conduct ELEC sanctioned debates. She noted that since only one candidate is participating in the gubernatorial public funds program, there will be no ELEC sanctioned debates in the primary election.

Vice Chairman Timpone asked if debates could be held without the Commission's sanction.

Compliance Director Davis replied in the affirmative.

The Vice Chairman thanked the Compliance Director for her report.

5. Public Comments

Vice Chairman Timpone asked if any members of the public wished to comment. Seeing none, he asked for a motion to enter Executive Session.

6. Resolution to go into Executive Session

On a motion by Commissioner Saunders, seconded by Chairman DeFilippis and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and current litigation, which will become public as follows:

- A. A report on requests from the public for investigations of possible violations, which report will not become public in order to protect the identity of informants and maintain the integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, will become public not later than seven business days after mailing to the named respondents.
- 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 not later than seven business days after mailing to the named respondents. The reports will not become public in order to protect the identity of informants and maintain the integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, will become public not later than seven business days after mailing to the named respondents.

- C. Matters under current litigation, the substance of discussions of which will not become public in order to protect the attorney-client privilege and the deliberative process. However, any litigation in which the Commission is currently a party is a public matter and will become public subject to the above limitations and privileges.

Return to Public Session

7. Adjournment

On a motion by Chairman DeFilippis, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to adjourn at 12:20 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz