



State of New Jersey

RONALD DEFILIPPIS  
Chairman

WALTER F. TIMPONE  
Vice Chairman

AMOS C. SAUNDERS  
Commissioner

## ELECTION LAW ENFORCEMENT COMMISSION

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Deputy Director

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AMY F. DAVIS  
Compliance Director

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### PUBLIC SESSION MINUTES

July 16, 2013

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, Legal Counsel Matthews, and senior staff were present. Director of Review and Investigation Shreve Marshall was also present. Assistant Report Examiner Lovinsky Joseph was present for the purpose of recording the minutes.

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 June 18, 2013

On a motion by Commissioner Saunders, seconded by Vice Chairman Timpone, and passed by a vote of 3-0, the Commission approved the Public Session Minutes of June 18, 2013 as amended by Chairman DeFilippis.

#### 3. Executive Director's Report

##### A. Introduction of Steve McManus

Executive Director Brindle informed the Commissioners of the hiring of Steve McManus as the newest member of the Legal Staff. He stated that Mr. McManus served as a law clerk at Judiciary and is a graduate of Drexel University's Earle Mack School of Law.

B. 40<sup>th</sup> Anniversary Celebration

The Executive Director reported that many positive comments had been received about the Commission's 40<sup>th</sup> anniversary celebration last month.

C. Legislative Proposals

Executive Director Brindle stated that the Commission's legislative proposals for reforming pay-to-play regulation and obtaining disclosure from independent groups will likely not see any action this year, at least not before the general election. He expressed hope that the Legislature will take up these proposals after November, perhaps in a post-election "lame-duck" session.

D. Federal Cases

The Executive Director informed the Commissioners of the case Wagner v. FEC, currently being heard before the U.S. District Court for the District of Columbia. He stated that the case was a challenge to the total ban on contributions from federal contractors in federal elections, and cited the First and Fourteenth Amendments. Executive Director Brindle reported that New Jersey does not have a ban on such contributions, but limits them to a greater degree compared to other types of contributions.

E. Primary Election Contributions and Expenditures

The Executive Director reported that a total of \$52.8 million was raised for the recent primary election, and noted that this figure includes gubernatorial, legislative, and independent group activity, but not local activity.

Executive Director Brindle informed the Commissioners that gubernatorial candidates raised \$9.9 million and spent \$9.2 million, legislative candidates raised \$28.1 million and spent \$22.2 million, and independent groups raised \$14.8 million and spent \$13.6 million. He stated that staff had revised upward its earlier prediction of \$25 million in independent spending to between \$30 million and \$40 million based on this data.

F. Legislative White Paper

The Executive Director reported that Deputy Director Joseph Donohue had completed a White Paper relevant to 2011 campaigns and trends. He said that it was an extraordinary effort.

The Deputy Director indicated that the key trend was independent spending emerging as a major factor in New Jersey elections, a development that highlights the need for more disclosure of such activity. He stated that the 2011 legislative election was relatively ordinary, with only one incumbent losing, and no major self-financing candidacies.

Deputy Director Donohue reported that independent spending had increased to \$1.1 million, 11 times greater than in 2007. He noted that this figure was an estimate, as many

501(c)4 committees are not required to disclose their activity, the exact amount likely being higher. The Deputy Director further noted that independent spending had a disproportionate influence on the election, as 91 percent of independent funds went to battleground races, as opposed to 61 percent of funds from political party committees.

Deputy Director Donohue stated that 30 percent of the total spending in the 2012 special election came from independent groups, and that the independent group “Fund for Jobs, Growth, and Security” has already raised more money than the total of all independent spending in the 2007 legislative election. He indicated that this significant growth in spending reinforces the case for requiring disclosure of independent groups, and is especially relevant for battleground races.

Chairman DeFilippis expressed his opinion that national groups are focusing their attention on New Jersey as it is one of only two states with major elections this year. He thanked the Deputy Director for his report.

Vice Chairman Timpone asked Deputy Director Donohue if he had factored in the effect of having the special U.S. Senate election right before the general election in his report.

The Deputy Director replied that he had not, but suggested that the closeness of the two elections may influence the distribution of funds.

The Chairman noted that financial information would not be available for independent spending in the U.S. Senate race, as it was a federal election.

G. Summer/Fall Meeting Schedule

- August 20, 2013 at 11:00 a.m. in Trenton (if needed);
- September 17, 2013 at 11:00 a.m. in Trenton; and
- October 15, 2013 at 11:00 a.m. in Trenton.

4. Report on 2013 Gubernatorial Public Financing Program

Compliance Director Amy Davis informed the Commissioners that since her last report at the Commission’s meeting in June, no submissions for public matching funds have been received and that staff will report at the Commission’s next meeting in September.

She stated that the deadline for gubernatorial candidates to participate in the public financing program or elect to participate in the dates, if they are not accepting public funds, is September 3, but the Commission is required by law to select debate sponsors by July 31<sup>st</sup>. Director Davis noted that as the debate sponsor selection deadline is before the statutory deadline for candidates to apply for public funds, the Commissioners will select debate sponsors today and staff will inform the selected sponsors of any qualified candidates immediately following the September 3<sup>rd</sup> deadline.

The Compliance Director reported that the Commission has received and provided the Commissioners a summary chart and copies of the seven applications to sponsor the two gubernatorial and/or one lt. gubernatorial debates.

Director Davis noted that a sponsor must be unaffiliated with any political party or holder of or candidate for public office, must not endorse any candidate in the pending general election, and must agree to not make any such endorsement until the completion of any debate sponsored by the organization. She added that all of the sponsor applicants have indicated on the applications that they will comply with these requirements.

Compliance Director Davis indicated that the Commission is required by statute to the maximum extent possible to select different sponsors for each of the three debates, and that in the past, the Commission has emphasized the importance of each sponsor's ability to reach as many NJ voters as possible. She stated that the debates must occur between September 17 and October 25, and that the Lt. gubernatorial debate must also be the second of the three debates.

Director Davis reported that staff has provided all potential debate sponsors with the rules of conducting debates, including the requirement to provide written notice to the Commission of any change in its debate plans. She informed the Commissioners that staff has encouraged the debate sponsor applicants to attend today's meeting so that they may have an opportunity to present each proposal and afford the Commissioners and staff the opportunity to ask any questions concerning an application.

The Chairman thanked Compliance Director Davis for her report.

5. Selection of 2013 Gubernatorial General Election Debate Sponsors

Chairman DeFilippis announced that a public hearing was being conducted for the purpose of selecting sponsors for the 2013 Gubernatorial and Lieutenant Gubernatorial General Election Debates.

A court reporter was available to record the proceedings.

Seven applications were received from the following:

**Gubernatorial and Lt. Gubernatorial Debate Sponsor Applicants:**

- (1) Kean University;
- (2) League of Women Voters of NJ Education Fund, WABC-TV (Channel 7)/WPVI-TV (Channel 6) and Univision 41;
- (3) NJIT Center for Resilient Design, News 12, WBGO-FM, NJ Spotlight, Cornwall Center, NRBP, Einstein's Alley, and NJBIZ;
- (4) Princeton University, NJTV, WHYY-radio, Associated Press and NJ Spotlight; and,
- (5) Richard Stockton College of NJ and The Press of Atlantic City.

**Gubernatorial Only Debate Sponsor Applicants:**

- (6) Montclair State University with NJTV and other local media partners; and,
- (7) William Paterson University with WCBS TV Channel 2 in NY, WKYW TV Channel 3 in Philadelphia, The Record/Herald News and Gannett NJ newspapers.

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission selected William Paterson University and Montclair State University to sponsor one 2013 gubernatorial general election debate each.

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission selected Kean University to sponsor the lieutenant gubernatorial general election debate.

6. Public Comments

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

7. Resolution to go into Executive Session

On a motion by Commissioner Saunders, seconded by Vice Chairman Timpone 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. Final Decision Recommendations in complaint proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public not later than seven business days after mailing to the named respondents.
- B. 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.
- 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

8. Adjournment

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to adjourn at 1:37 p.m.

Respectfully submitted as true  
and correct,

Jeffrey M. Brindle  
Executive Director