

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

NOVEMBER 8, 1984

PUBLIC SESSION MINUTES

PRESENT:

Andrew C. Axtell, Chairman
Alexander P. Waugh, Jr., Vice Chairman
Haydn Proctor, Member
Owen McNany, Member-Designate*
Frederick M. Herrmann, Executive Director
Gregory E. Nagy, Staff Counsel
Luisa Ragonese, Election Finance Analyst
Edward J. Farrell, General Legal Counsel

ABSENT:

William R. Schmidt, Asst.
Executive Director

* Commissioner-Designate McNany attended only the public session.

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1975, c.231, special notice of the meeting of the Commission has been filed with the Secretary of State's office and distributed to the entire State House press corps.

The meeting convened at 10:00 a.m. at the offices of the Commission, 28 West State Street, Trenton, New Jersey.

1. Approval of Minutes of Public Session of October 17, 1984

On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 3-0, the Commission approved the public session minutes of October 17, 1984.

2. Introduction of New Staff Member

Luisa Ragonese, formerly a supervising advocate on the staff of the Community Health Law Project in Camden, New Jersey, was introduced to the Commissioners. Ms. Ragonese has assumed the position of Election Finance Analyst.

3. Pending Legislation: S-1523 (Orechio)

Executive Director Herrmann reported that on October 22, 1984 Senate Bill No. 1523 (Orechio), which amends the gubernatorial public financing provisions of the Reporting Act, was amended and passed in the Senate by a vote of 30-6, and was passed in the Assembly by a vote of 71-0. Mr. Herrmann reported that to date the bill has not been signed by the Governor. Furthermore, Mr. Herrmann said he has been in contact with the Governor's Deputy Chief of Staff and Assistant Counsel to urge expeditious action. Chairman Axtell suggested that a letter to the Governor from the

Commissioners be prepared requesting immediate action on the bill so that the Commission has adequate time to prepare forms, program its computer programs, adopt regulations, and so that an individual interested in becoming a candidate will know what the governing law is. General Counsel Farrell suggested that the letter also state that the current law provides for an expenditure limit that appears in the judgment of the Commission to be unrealistically low. Chairman Axtell asked Mr. Herrmann to prepare such a letter and have it signed on behalf of the Commissioners.

4. Public Hearing on Public Financing Regulations

Executive Director Herrmann said that a public hearing on the amendments to the public financing regulations proposed by the Commission would be conducted at 10:00 a.m., at the Commission offices, on November 20, 1984. The Commission will conduct its next regularly scheduled meeting at 9:00 a.m., on the same date.

5. Introduction of Commissioner Designate Owen McNany

Executive Director Herrmann introduced Owen McNany, who has been nominated by the Governor to be a Commissioner. Mr. Herrmann said that the nomination is pending in the Judiciary Committee of the Senate, and that the next meeting of that committee will be on November 29, 1984. Mr. Herrmann said he anticipates the nomination will be approved and sent to the full Senate for confirmation.

6. Conference of Council on Governmental Ethics Laws

Mr. Herrmann said that the Conference of the Council on Governmental Ethics Laws which is being conducted from December 2 to December 5, 1984, in Seattle, Washington, will be attended by himself, Assistant Executive Director William R. Schmidt, General Counsel Edward Farrell, Staff Counsel Gregory Nagy and Director of Compliance and Review Juana Schultz. He reported that Mr. Schmidt and Mr. Farrell will be paying their own travel costs. Chairman Axtell said that neither Mr. Farrell nor Mr. Schmidt should be required to pay their travel expenses. Mr. Farrell stated that he believed that it was appropriate for him to pay his travel expenses. Mr. Herrmann said that the Department of Treasury must approve any requests for travel involving more than two State employees from the same agency. On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0 in favor, the Commission adopted a resolution to request that Mr. Schmidt's travel expenses be assumed by the State.

7. League of Municipalities Meeting

Mr. Herrmann reported that he will be attending with Ms. Schultz the annual meeting of the New Jersey League of Municipalities in Atlantic City next week.

8. Future Meeting Dates

Mr. Herrmann said that the Commission will not conduct a meeting in the early part of December because of the conflict with the Seattle conference of the Council on Governmental Ethics Laws. Therefore, the only meeting for the Commission in December will be conducted on December 19, 1984. Also, Mr. Herrmann suggested that the first meeting in 1985 be conducted on January 9, 1985 because of Christmas vacation schedules. On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 3-0, the Commission adopted the January 9, 1985 meeting date.

9. Reorganization of Library

Mr. Herrmann advised the Commission that the library in the large conference room of the Commission offices has been reorganized, and copies of the Annual Reports of the Commission from all prior years are now available.

10. Fine Collection Status

Chairman Axtell requested that the Commission receive a report concerning the status of fine collection activities at its next meeting. Mr. Nagy stated that fine collection matters were generally current, and a report will be circulated at the next meeting.

11. Advisory Opinion Request No. 17-1984 from Michael A. Gast

The Commission reviewed a two-page draft advisory opinion prepared by Mr. Nagy in response to an October 30, 1984 advisory opinion request from Michael A. Gast on behalf of "Friends of David Schwartz." This request concerned the use of surplus campaign funds for custodial services for the legislative office maintained by Assemblyman Schwartz. The draft advisory opinion states that the Commission does not have jurisdiction under the Reporting Act to advise as to permissible uses of surplus campaign funds, and that questions concerning legislative offices expenses should be referred to the Joint Legislative Committee on Ethical Standards. On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0, the Commission approved the advisory opinion as drafted.

12. Request for an Advisory Opinion from the Attorney General

Mr. Nagy reported the draft advisory opinion request reviewed at the meeting of October 17, 1984, which concerned the Commission's jurisdiction over the use of surplus campaign funds, was forwarded to the Attorney General. He stated that the Attorney General's office has received the request and is currently reviewing it.

13. Advisory Opinion Request No. 18-1984 from Robert Raymar, Esq.

The Commission reviewed an advisory opinion request received November 1, 1984 from Robert A. Raymar, Esq., on behalf of "Friends of

John Russo, Inc." This request concerns "testing the waters" activities. Mr. Nagy stated that Mr. Raymar had consented to an extension to November 21, 1984, and therefore Mr. Nagy will prepare a draft opinion for the Commission's consideration at its meeting scheduled for November 20, 1984. Commissioner Waugh suggested that Mr. Raymar be asked to specify what activity Senator John Russo has undertaken in the past two years in his role as Senate Majority Leader that Mr. Russo would consider outside of the scope of "testing the waters" activity. Mr. Nagy stated he would attempt to obtain this information.

14. Request for Advisory Opinion from Joseph Poremski

Mr. Nagy distributed a two-page memorandum concerning reporting of public question activity and a three-page letter received November 5, 1984 from Joseph Poremski, President, Tinton Falls Taxpayers Action Group, Inc. Mr. Nagy recommended that the request for an advisory opinion be denied because the inquiry concerns a group that represents it will not spend more than \$2,500 on behalf of an referendum campaign. Commission Regulation N.J.A.C. 19:25-12.5 does not require a political committee that is supporting a public question to be subject to reporting if its total expenditures do not exceed \$2,500.

Mr. Farrell noted that the Commission has not required disclosure of pre-certification expenses of entities that support public questions. Commissioner Waugh noted that the Commission earlier this year distinguished a recall question from other types of public questions. In the setting of a recall election only, pre-certification expenses, that is expenses incurred prior to the certification of the question to the ballot, are subject to reporting because they are undertaken in the context of election-related activity. Mr. Farrell suggested that he be given an opportunity to study the issue of pre-certification disclosure by groups supporting public questions generally, and report back to the Commission on his findings. Mr. Herrmann said that the staff consensus is that pre-certification expenses of such groups should be subject to disclosure if that result is legally permissible. On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 3-0, the Commission adopted a resolution authorizing Mr. Nagy to advise this group that an advisory opinion was unnecessary in view of its representation that expenses will not exceed \$2,500, and requested Mr. Farrell to undertake a study of the legal issues involved.

15. Public Financing Regulations (Orechio Bill)

Mr. Nagy distributed a 40-page draft of amendments to the Commission regulations governing the public financing of the gubernatorial primary election. N.J.A.C. 19:25-16.1 et seq. Mr. Nagy said that the draft included the proposed changes that are the subject of the hearing on November 20, 1984, and additionally contain proposed changes that will reflect the statutory amendments in S-1523 that have been passed by the Legislature and are currently awaiting action by the Governor. Mr. Nagy said that the regulations cannot be formally proposed until S-1523 is enacted; however, they have been distributed in anticipation of enactment.

16. Resolution to Enter Executive Session

On a motion by Commissioner Proctor, seconded by Commissioner Waugh and a vote of 3-0, the Commission decided to go into executive session to review the executive session minutes of October 17, 1984, and to discuss investigative, enforcement and personnel matters, the results of which will be made public at their conclusion.

17. Adjournment

On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 3-0, the Commission voted to adjourn.

Respectfully submitted,



FREDERICK M. HERRMANN
Executive Director

FMH/slm
