

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

APRIL 23, 1985

PRESENT:

Andrew C. Axtell, Chairman
Alexander P. Waugh, Jr., Vice Chairman
Haydn Proctor, Member
Owen V. McNany, Member
Frederick M. Herrmann, Executive Director
Jeffrey M. Brindle, Deputy Director
Edward J. Farrell, General Counsel
Gregory E. Nagy, Staff Counsel
Peter D. Nichols, Director of Public Financing*

* Attended the public session only

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1974, c. 231, annual 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, Trenton, New Jersey.

1. Approval of Public Session Minutes of April 16, 1985

On a motion by Commissioner Proctor, seconded by Commissioner McNany and a vote of 4-0, the Commission approved the public session minutes of April 16, 1985.

2. Executive Director's Report

Executive Director Herrmann reported that Deputy Director Brindle will testify before the Assembly State Government Committees on Monday, April 29, on behalf of the Commission regarding the following bills:

Bill A-3341 (McEnroe) - The bill provides for a \$50,000 cap on Assembly spending if a candidate chooses to accept free television time on the New Jersey Network and/or a ballot statement. The bill contains an "expenditure limit" but no contribution limits, thereby doing nothing to control the undue influence of large contributors. It also poses administrative problems. These include monitoring independent expenditures that might increase as a result of the spending limit and preparing a ballot statement in the short time period allotted. The bill also may put the Commission in a position of having to make decisions to limit spending that might affect the outcome of an election. Too, it discourages local candidates from running jointly with legislative candidates.

Mr. Herrmann stated that it is staff's opinion that this is not a good bill and should be opposed.

Vice Chairman Waugh said that one of the most difficult issues would be editing statements. He said that the Commission should suggest limiting them to 500 words. The staff is preparing a fiscal memorandum to estimate the cost of this legislation.

General Counsel Farrell said that Commission should oppose the bill as being a philosophically bad idea. Besides practical problems with the bill, there are also constitutional problems in having the Commission editing candidate statements in an electoral setting.

Mr. Herrmann said that if this bill moves, he would like to request a specific appropriation so that the Commission can administer it. The Commission agreed.

Bill S-2124 (Russo) - Mr. Herrmann advised the Commission that this bill provides uniform dates for fire district elections. He said that he feels that this is a good bill because it would make the Commission's role in administering fire district campaign spending easier. However, he noted that the Commission should testify that in the future a bill should be enacted that would exempt it from monitoring fire district elections and other special district elections entirely. Mr. Herrmann said that big money is not involved in these elections and it is not cost effective to allocate the extensive staff time needed to monitor them.

Mr. Herrmann reported that members of the Commission staff and he met with the Joint Appropriations Committee on Wednesday, April 17, and answered the committee's questions regarding gubernatorial public financing, the Commission's record storage problems, personal financial disclosure initiatives, and what the Commission's responsibilities are in general. He said that the Commission received no criticism, but a lot of praise regarding its performance.

A resolution will be sponsored to allocate \$60,000 which the Commission requested to fund two vacant positions (Election Finance Analyst and Assistant Election Finance Analyst). The Governor's office said it would support this resolution. Also, \$45,000 for the microfilm project was approved that was already in the Governor's proposed budget.

Mr. Herrmann said that the appearance before the JAC was a culmination of a total staff effort. He thanked Deputy Director Brindle, Staff Counsel Nagy, Director of Public Financing Nichols, and Staff Administrator Carolyn Neiman for their outstanding support in developing testimony and strategies.

Mr. Herrmann asked for any changes that the Commission had to offer after reviewing the draft ELEC brochure. Since the Commission had no changes, the brochure will be further processed.

The Commission was presented with copies of the 1984 Annual Report. Mr. Herrmann said that various members of the staff contributed different sections of it, while Deputy Director Brindle was responsible for the initial draft and layout.

Mr. Herrmann said that upper-level management has continued to work with Civil Service in order to hold on to the Commission's report examiners.

Mr. Herrmann reported that the public area will be refurbished by moving the Xerox machine to one of the back offices, painting, and hanging "loaner" paintings obtained from the State Museum. He also mentioned that Deputy Director Brindle suggested having a color photo of the Commissioners hung in the reception area. Mr. Herrmann said that the area is somewhat of an eyesore and with a small amount of money could be beautified.

Mr. Herrmann said he contacted Senator Codey through Kathy Crotty, Deputy Director of the Senate Majority, to defuse a situation that arose because of a newspaper article using Commission (General 1983) data.

3. Reorganization Plan

Deputy Director Brindle presented the Commission's reorganization plan via a graphic presentation. The plan combines the Review section and the Investigative section under the direction of Assistant Staff Counsel Cheryl R. Clarke. Mr. Herrmann and Mr. Brindle said that Ms. Clarke has been working very well with the staff and is very enthusiastic about her new responsibilities. They agreed that Ms. Clarke deserves this recognition and should do a good job in her new management position.

Mr. Brindle feels that this restructuring, which involves training programs, will make this function of the Commission run more smoothly and improve the work flow.

4. Request for Advisory Opinion No. 06-1985

General Counsel Farrell distributed a draft one-page advisory opinion response to an advisory opinion request from Eugene A. Iadanza, on behalf of "Friends of Joe Palaia." **The requested advisory opinion** asked whether or not an elected official could pay for season football tickets (or other sporting events) out of funds previously contributed to him if the tickets are used by constituents and the elected official Mr. Iadanza also asked if the inquiry would be any different if the ticket costs were paid by a continuing political committee out of transferred funds.

General Counsel Farrell responded that campaign contributions may not be used to defray the private expenses of a candidate or of any other person. The Commission, however, has no jurisdiction over this issue and must pass this information on to the Attorney General. The question of whether or not campaign funds can be used for a continuing political purpose is a similar situation. Since the facts presented in the advisory opinion request do not specify that the funds are used for the public business of the office of the elected official, the Commission concludes that the use of campaign funds for that purpose are not appropriate.

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission approved Advisory Opinion No. 06-1985.

Staff Counsel Nagy inquired what actions the staff should take if reports are filed indicating personal use of surplus campaign funds. Mr. Farrell said such information should be referred to the Attorney General.

4. Adoption of CPC Signature Regulations

Staff Counsel Nagy distributed a memorandum regarding proposed regulations which change the definition of the term "political committee" in the regulations to include "continuing political committees"; and, add a new rule to permit the Commission to use the facsimile signature of the chairman on Final Decision and other orders. Since the 30-day public comment period has expired without receipt of any comment and the legislative review period has expired, Mr. Nagy recommended the Commission enact these changes and authorize him to submit the appropriate adoption notices to the Office of Administrative Law. On a motion by Vice Chairman Waugh, seconded by Commissioner McNany and a vote of 4-0, the Commission approved Mr. Nagy's recommendations.

5. Director of Public Financing's Report

Director of Public Financing Peter Nichols distributed folders containing public financing certifications. Mr. Nichols recommended that the submission received last week be certified, they included:

Robert J. Del Tufo	-	\$ 23,446.04
Kenneth A. Gibson	-	\$ 22,400.00
John F. Russo	-	\$ 26,700.00
Stephen B. Wiley	-	\$ 26,020.00

To date the candidates have received (including this certification):

Robert J. Del Tufo	-	\$178,096.42
Kenneth A. Gibson	-	\$323,719.98
John F. Russo	-	\$221,950.00
Stephen B. Wiley	-	\$340,880.00

Mr. Nichols reported that five candidate submissions were received before noon Monday (April 22) and would be processed for certification at the next Commission meeting.

Mr. Nichols noted that a submission had been made by Governor Kean and, in fact, was received Tuesday, April 16. The Kean campaign was informed the due date was Monday at noon in order for processing for today's (April 23) certification. The Kean submission was for \$421,908.

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to approve the submissions for certification.

6. 29-day Preelection Report for 1985 Run-off Election

The Commission reviewed a memorandum from Director of Review and Investigation Cheryl R. Clarke recommending that the 29-day preelection report obligation for the run-off election be waived this year. Ms. Clarke made this recommendation because the 29-day preelection report due date (May 13) precedes the municipal election date (May 14). Persons will not know if they are run-off candidates until after the date of the municipal election. Run-off candidates will file their first campaign reports on the 11-day preelection due date (May 31).

On a motion by Vice Chairman Waugh, seconded by Commissioner McNany and a vote of 4-0, the Commission accepted staff's recommendation.

7. Executive Session

On a motion by Commissioner Proctor, seconded by Commissioner McNany and a vote of 4-0, the Commission voted to go into executive session to discuss enforcement and investigative matters, the results of which will be made public at their conclusion.

8. Adjournment

On a motion by Commissioner McNany, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,



FREDERICK M. HERRMANN