

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

MARCH 19, 1986

PRESENT

Andrew C. Axtell, Chairman
Alexander P. Waugh, Jr., Vice Chairman*
Haydn Proctor, Member
Owen McNany, Member
Frederick M. Herrmann, Executive Director
Gregory E. Nagy, Staff Counsel
Cynthia H. Reinhard, representing the
General Counsel

ABSENT

Jeffrey M. Brindle,
Deputy Director
Edward J. Farrell,
General Counsel

* Arrived during the Executive Director's Report

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P. L. 1974, 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 10:50 a.m. at the Montclair Municipal Building, 205 Claremont Avenue, Montclair, N. J.

1. Executive Director's Report

a. Administrative Items - Executive Director Herrmann reported that over 300 cardboard boxes of records have been removed from the Commission offices in Trenton for storage with the State facility at the Record Retention Center. He said that the removal of these materials have substantially improved the operations of the Commission. He said that original records will be maintained at the Commission offices for four (4) years, and after that time they will be referred to the Record Retention Center where they will be maintained for an additional sixteen (16) years. After the expiration of this period, the records will be destroyed. Mr. Herrmann also reported that two new ceiling fans have been installed in the secretarial area to improve the air flow, and that new furniture for the reception area is on order and expected to be delivered shortly.

b. Legislation - Mr. Herrmann said that legislation concerning Initiative and Referendum procedures has stalled because of opposition expressed by South Jersey legislators, and a lack of apparent public interest in the issue. The bill was returned from the Assembly to the Assembly State Government Committee.

Mr. Herrmann said that two bills, A-780 (Weidel) and A-845 (Albohn), concerning regulation of surplus campaign funds, were pending before the Assembly State Government committee. He said that the chairman of that committee, Assemblyman Richard Zimmer, has indicated that the bills would be posted for consideration in May. Mr. Herrmann said he will continue to press for action, and will ask that the use of continuing political committee funds also be given consideration. Mr. Herrmann said that General Counsel Farrell has requested that draft regulations concerning surplus campaign funds be held for discussion until the next Commission meeting.

Mr. Herrmann reported that Assemblyman Richard Van Wagner has introduced a bill (A-1866) which would accomplish some of the legislative changes suggested by the Commission in its 1984 annual report. Specifically, the bill proposes that the Commission assume civil jurisdiction over enforcement of the requirement that political campaign material identify the person paying for such materials, that the Commission assume civil jurisdiction over the prohibition against political contributions by banks and other regulated industries, that the terms of the Commissioners be increased from 3 to 5 years, that the period of time for the Commission to respond to advisory opinion requests be increased from ten (10) to twenty (20) days, that fire district elections be eliminated from reporting requirements, and that the sixty (60) day postelection filing requirement be changed to a quarterly report filing requirement. Mr. Herrmann said that he would seek to have the period of time for answering advisory opinions extended to thirty (30) days and that other special district elections be eliminated as well as fire districts.

c. Budget Report - Mr. Herrmann said that the Commission staff is preparing a budget request for three new professional positions in the Administrative section. He noted that Commission staff has grown in recent years, and that the Department of Law and Public Safety does not do any of the paperwork that must be completed for various administrative purposes. Mr. Herrmann envisions that the positions are needed to deal with contracts, civil service, unions, long-range planning, purchasing, hiring, and other functions.* Mr. Herrmann noted that the Federal Election Commission (FEC) has lost some \$838,000 of its \$12.8 million budget because of mandated reductions of the Gramm-Rudman Act. Mr. Herrmann expressed some concern that it may prove difficult to increase the budget of the Commission in the present climate.

d. Executive Director Activities - Mr. Herrmann stated that on March 13, 1986 he met with David Linnett, Esq. chairman of the Election Committee of the State Bar Association. Mr. Herrmann said that a copy of the transcript of the public financing hearing has been mailed to Mr. Linnett at his request.

On March 24, 1986, Mr. Herrmann is scheduled to testify before the Senate State Government Committee concerning the operations of the Commission. His testimony was originally scheduled for March 6.

On March 26, 1986, Mr. Herrmann will address the East Windsor GOP Club concerning the role of the Commission in the election process.

On April 11, 1986, Mr. Herrmann and Deputy Director Brindle will attend a campaign financing program conducted in Washington, D.C. by the Political Finance Forum.

e. Annual Report - Mr. Herrmann distributed to the Commission members a draft copy of the 1985 Annual Report prepared by Deputy Director Brindle with the aid of the staff. He requested that the Commissioners review the report and return it to the Commission office by April 1st with any corrections or suggestions that they have.

f. Computer Operations - Mr. Herrmann reported that the tapes containing the data entered into the computer are now being stored in a separate building, as suggested by Commissioner McNany at the last meeting. Furthermore, Mr. Herrmann has asked the Office of Telecommunications and Information Systems (OTIS) in the Department of the Treasury to review the security of the computer operations.

* At this point in the meeting, Vice Chairman Waugh arrived.

g. Gubernatorial Finance Report - Mr. Herrmann reported that the report on the partial Public Financing of the Gubernatorial elections was being drafted by Peter D. Nichols. He said that recommendations will probably be similar to those in the 1981 report. He suggested that Dr. Herbert Alexander attend the May 6 meeting of the Commission in order that he may participate in the Commission's consideration of the draft report.

2. Approval of Public Session Minutes of February 19, 1986

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh, the Commission approved the public session minutes of February 19, 1986 by a vote of 4-0.

3. Next Meeting Date

Vice Chairman Waugh suggested that meetings scheduled for April 1st and 15, 1986 be cancelled, and that the Commission conduct its next meeting on April 8, 1986 at 11:00 a.m. in the Maplewood Township Municipal Hall. The next regularly scheduled meeting of the Commission is May 6, 1986. Vice Chairman Waugh suggested that the May 6 meeting be conducted at his law offices, 1 Palmer Square, Princeton, NJ, and reaffirmed that Dr. Alexander be invited for that meeting.

4. ELEC v Citizens to Make Mayor-Council Government Work

Cynthia Reinhard, an attorney with the law firm of General Counsel Farrell, reported that the Appellate Division of the Superior Court reversed the Final Decision of the Commission in the case of ELEC v Citizens To Make Mayor-Council Government Work. She said that she had met with General Counsel Farrell, and that he suggested a memo be prepared by himself for the next meeting concerning the advisability of seeking review of the decision in the Supreme Court. Vice Chairman Waugh asked how many days the Commission had for filing of an appeal to the State Supreme Court. Miss Reinhard agreed with Staff Counsel Nagy that the period was 20 days. Commissioner Proctor said that the opinion upheld the position of the Commission in regard to the substantive issues of reporting requirements for financial activity related to the circulation of recall petitions, and in regard to the constitutionality of the Reporting Act as applied to recall elections. He said that the only reason to consider an appeal was the fact that the ruling was given only prospective application. Vice Chairman Waugh noted that he had never seen an opinion that supported an agency but at the same time extended only prospective application. His concern was that the opinion, if published, would establish a bad precedent. He asked Miss Reinhard to determine by what date the Commission had to file an appeal to the Supreme Court. If the appeal must be filed before the April 8, 1986 meeting, Vice Chairman Waugh requested that General Counsel Farrell or Miss Reinhard poll the Commissioners by telephone to determine whether or not the Commission should pursue the appeal.

5. Advisory Opinion Request 02-1986

Staff Counsel Nagy reviewed a two-page draft advisory opinion response to Harry Rosenberg, Esq., treasurer, campaign fund of Patricia Koch, a candidate for town council of Morristown in the 1985 general election. Mr. Rosenberg asked whether the candidate can transfer surplus campaign funds of \$455.34 to another account and use those proceeds for the publication of a newsletter to her constituents. The draft opinion approved the transfer with the caveat that the cost associated with the newsletter may become subject to reporting in a future election campaign.

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission voted to approve Mr. Nagy's draft response.

6. Advisory Opinion Request 03-1986

Staff Counsel Nagy reviewed a three-page draft advisory opinion response to Donald Jump, treasurer for the "Russo for Governor Campaign of 1985." His request asked whether certain funds remaining in the campaign account may be used for paying an unsatisfied debt. The draft opinion states that to the extent the remaining funds are derived from contributions in excess of \$800 to the candidate they cannot be used for any campaign purpose, but must be returned to the contributors.

On a motion by Commissioner Proctor, and seconded by Vice Chairman Waugh and a vote of 4-0, the Commission voted to approve Mr. Nagy's response.

7. Executive Session

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

8. Adjournment

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to adjourn at 11:50 a.m.

Respectfully submitted,


Frederick M. Herrmann

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