

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION
PUBLIC SESSION MINUTES
SEPTEMBER 16, 1986

Present

Andrew C. Axtell, Chairman
Alexander P. Waugh Jr., Vice Chairman
Haydn Proctor, Member
Owen V. McNany III, Member
Frederick M. Herrmann, Executive Director
Jeffrey M. Brindle, Deputy Director
Edward J. Farrell, General Counsel
Gregory E. Nagy, Staff Counsel
Nedda Gold Massar, Assistant Staff Counsel
Vratislav Pechota Jr., Assistant Examiner

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 had been filed with the Secretary of State's office and distributed to the entire State House Press Corps.

The meeting convened at 9:10 a.m. at the Election Law Enforcement Commission office, Trenton, New Jersey.

1. Approval of Public Session Minutes of July 16, 1986.

On a motion by Commissioner McNany, seconded by Commissioner Proctor, the Commission approved the public session minutes of July 16, 1986 by a vote of 4-0.

2. Introduction of two Election Law Enforcement Commission employees

Executive Director Herrmann introduced Nedda Gold Massar, Assistant Staff Counsel, to the Commissioners. Staff Counsel Nagy described the amount of work she put into this meeting's material, her background and education. Executive Director Herrmann also introduced Vratislav Pechota, Jr., formerly of Public Financing, now joining the Review staff.

3. Executive Director's Report

I. Administrative

- a. Executive Director Herrmann informed the Commissioners about the state of the Public Financing Report. He highly praised the report, its contents and its tables. The final copy was delivered to the printer, Trentype, this week. By next week the printed report will be promptly mailed to the Commissioners the Legislature, the Governor, and the press.
- b. Executive Director Herrmann mentioned the successful use of the newly installed computer unit that is tied directly into the statewide fiscal data system. It is of great help because the fiscal officer can instantaneously find out the exact balances of the accounts.

Also, in the near future, the system will be hooked up into the statewide personnel data computer system. It will make the Commission's personnel transactions more expedient and it will reduce the section's paperwork. On a trial basis, a coin operated copy machine was introduced. It is located in the public room, and it will save the staff's time and will be helpful to the public and especially to the reporters. Vice Chairman Waugh said that the public will appreciate this service since the staff will not know what part of the document is being copied. General Counsel Farrell added that the public will approve of the service since it will save them waiting time. Discussion on how the coin operation works and on other copy capabilities ensued. Executive Director Herrmann then told the Commissioners that 176 boxes of old records were removed into storage. The old file room has been cleared and congestion throughout the office has been reduced.

- c. Executive Director Herrmann reported on the success of ELEC's newsletter that went out to about 2,000 people and generated a good response from recipients. Executive Director Herrmann then revealed plans for the next newsletter that will include, among other items, a list of unacceptable excuses for late filing. Chairman Axtell followed up on the subject of non-filers and late filers. He noted that there are a lot of late and non-filers and suggested that staff consider mailing these candidates a registered letter or a telegram to let them know that they have an obligation to file.

Staff Counsel Nagy stated by way of clarification that candidates receive many notices from the Commission already. "Three warning letters are sent to candidates," he said.

Vice Chairman Waugh stated that the compliance rate has remained at its usual level. Chairman Axtell wondered if perhaps candidates throw these letters out assuming that they are "junk mail." Executive Director Herrmann said that the newsletter should help compliance. Deputy Director Brindle stated that about ten percent of entities are filing late and Staff Counsel Nagy added that only one half of one percent fail to file at all. "The Commission sends warning letters to these candidates; now we have a list of when and to whom letters were sent. Since we have all this background information, we never lose in court," said Staff Counsel Nagy.

At this point, Chairman Axtell asked why there are more complaints against the Democrats than against Republicans. Executive Director Herrmann replied that the computer selects late filing complaints and that in the long run the complaints are evenly distributed between the two parties. Indeed, of 100 complaints against partisans prepared by staff for this meeting, 51 were about Democrats and 49 were about Republicans.

Chairman Axtell next queried as to why there are so many complaint matters at this meeting. The Executive Director responded that because the Commission has not met since July, the number of complaint matters has necessarily doubled.

- d. Executive Director Herrmann continued with his report by mentioning

that the agency is in the process of getting its own logo, hopefully before this Christmas. "It will help compliance too, since this logo will be on all documents, including the envelopes," he said.

- e. Executive Director Herrmann informed the Commissioners that they will get the budget spread sheets at their next meeting and that they will be able to vote on them at that time. He believes that budgetarily the Commission is in incredible shape. He said that the Director of Administration, Richard Magee, did a great job in preparing this budget.
- f. Executive Director Herrmann also mentioned the upcoming Christmas party. He suggested that it take place at the Glenndale Inn on the same day of the December meeting.

II. Regional and National Activities

- a. Executive Director Herrmann informed the Commission that he is being considered for the COGEL Steering Committee. He also reported that the directors participated in the Regional Conference on Lobbying in Baltimore on August 12, 1986. Cheryl Clarke, Director of Review and Investigation, spoke at the conference. On October 16, 1986, Director Herrmann said that he will address the National Public Affairs Council on PAC's and Lobbying. Then, tentatively, on December 12, 1986, he will take part on a panel of the Eagleton Conference on Public Financing. On November 20, 1986, Executive Director Herrmann will be consulting at the League of Municipalities meeting.
- b. Executive Director Herrmann said that the date for the COGEL Conference is set for December 3-5, 1986 in Hartford, Connecticut. He is on the Public Financing panel along with Herb Alexander and Ruth Jones. Staff Counsel Nagy is on the Lobbying panel. The Commissioners were asked to decide if they are interested in attending and to inform Executive Director Herrmann of their decision. Vice Chairman Waugh asked for the program of the conference because he is thinking about attending. Director Herrmann said he would mail all the Commissioners and the General Counsel copies of the program.

4. Senate Committee Substitute for A-1866 (Van Wagner)/S-840 (Russo)

Executive Director Herrmann reported that this bill incorporates numerous ELEC annual report recommendations. It was reported out of committee on August 26, 1986 with Senate President Russo as prime sponsor. Staff Counsel Nagy testified before the Senate State Government Committee and has done a fine job helping to shepherd the bill through the process thus far. Major provisions of this bill are:

- Commissioners' terms increases from 3 to 5 years
- Advisory opinion response time increases from 10 to 35 days
- 60-day postelection reporting is replaced by quarterly reporting
- eliminates special district elections
- adds to ELEC's jurisdiction prohibited contributions and disclaimers

5. Future Commission Meeting Dates

The Commissioners agreed that the meetings will take place once a month until the end of the year. Meetings scheduled for October 7, 1986, November 5, 1986, and December 2, 1986 will be cancelled. They also agreed to the following dates for scheduled meetings:

October 15, 1986 - 9:00 a.m.
November 19, 1986 - 9:00 a.m.
December 16, 1986 - 10:00 a.m.

All of these meetings will be held at ELEC's office in Trenton. Following the December meeting, there will be a Christmas party for the Commission staff.

6. Adoption of Surplus Funds Regulations

The Commission reviewed a memorandum from Staff Counsel Nagy concerning the adoption of regulations proposed by the Commission to regulate surplus campaign funds. It also reviewed a two-page letter from Mr. Edward McCool, Executive Director of New Jersey Common Cause, urging the Commission to prohibit such funds from being used to maintain legislative district offices.

Vice Chairman Waugh asked whether the Commission, by not specifically prohibiting such use, was not implicitly approving it. General Counsel Farrell responded in the negative and said he believed the Commission should avoid ruling on the legislative district office use issue because that question should be resolved only by the Legislature itself. Staff Counsel Nagy reported that the Joint Legislative Committee on Ethical Standards ruled in 1984 that the issue was under its jurisdiction pursuant to the "New Jersey Conflicts of Interest Law."

Commissioner Proctor said he believed the Legislature should exclusively regulate the funding of legislative district offices. Chairman Axtell said that he was concerned that legislators from more populous areas had greater fund-raising capacity than those from rural areas and therefore an inequality could result if surplus campaign funds were permitted to be used for district office expenses.

Ms. Marla Korchmar, Assistant Director of New Jersey Common Cause, restated the view expressed in Mr. McCool's letter that the Commission should explicitly rule on the issue, and should prohibit the use of surplus funds to support legislative district offices.

Vice Chairman Waugh observed that under the current regulations there is no prohibition against such a use. Commissioner Proctor reiterated that the Legislature should decide if such a prohibition is appropriate. Commissioner McNany said he believed the Legislature, not the Commission, should prohibit such a use.

Vice Chairman Waugh suggested that a new subsection (c) be added to the text of proposed N.J.A.C. 19:25-7.4 to the effect that the Commission does not permit or prohibit the use of surplus funds for legislative

district offices because the Reporting Act does not regulate legislative activity. General Counsel Farrell said he would draft such a subsection.

On a motion by Vice Chairman Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission directed General Counsel Farrell to prepare an amendment to the proposed regulation incorporating the suggestion concerning legislative district office use for the Commission's consideration at its next meeting.

7. Executive Session

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

8. Adjournment

On a motion by Vice Chairman Waugh, seconded by Commissioner McNany and a vote of 4-0, the Commission voted to adjourn at 11:55 a.m.

Respectfully submitted



FREDERICK M. HERRMANN