



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

FEBRUARY 15, 1994

Chairman McNany, Commissioner Linett, Commissioner Eldridge, senior staff, and Director of Public Financing Nedda Gold Massar were present. Counsel Farrell was absent.

Chairman McNany called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., 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 9:30 a.m. at the State House, Room 319, Trenton.

1. Approval of Public Session Minutes of January 18, 1994

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission approved the Public Session Minutes of January 18, 1994.

2. Ballot Statement Reimbursement

For detailed information see memorandum from Nedda Gold Massar, Director of Public Financing, to Frederick M. Herrmann, Ph.D., Executive Director, dated February 4, 1994 and entitled "Reimbursement to County Clerks of Gubernatorial Ballot Statement Costs."

Director Massar noted that the total value of the claims submitted by the 12 counties approved by the Commission for reimbursement at its December, 1993 and January, 1994 meetings amounted to \$205,295.36. She added that staff has reviewed the information provided to support the claims filed by the Essex, Bergen, Middlesex, Salem, and Sussex County Clerks.

Director Massar said that approximately \$165,000 is available for distribution to the counties, an amount which represents 80.5 percent of the \$205,295.36 in claims. Staff therefore recommended a partial reimbursement to each of the 12 counties based on 80.5 percent of their individual claims. The total amount to be reimbursed to the 12 counties is \$165,262.79.

Director Massar added that based upon the experience of administering the 1993 gubernatorial ballot statement program, staff would suggest that the public financing report contain a recommendation concerning funding of future ballot statement expenses. She said that one approach might be for the Legislature to amend N.J.S.A. 19:44A-37 to include a formula for reimbursement to the counties which would contain a maximum amount. She said that the application of a formula to calculate reimbursement amounts would improve the Commission's ability to calculate its budget request.

Commissioner Linett expressed his concern that in a sense the recommended pro-rated reimbursement amounts suggested by staff penalize those counties that were efficient in their ballot statement efforts. He said, however, that he would not oppose the staff's recommendation.

Director Massar reported that correspondence was received on February 10, 1994 from the Passaic County clerk applying for reimbursement, and copies were circulated. No reimbursement claim had been sent to the Commission by Passaic County as of the December 1, 1993 deadline.

The Commission declined to approve reimbursement for Passaic County because the application was not timely filed.

On a motion by Commissioner Eldridge, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved the staff recommendation on the ballot statement reimbursement as set forth in the staff memorandum.

3. Hiring Freeze Letter

Commissioner Linett said that he approved of the draft letter, except that he believed that the first sentence should emphasize the fact that the Commission was appropriated an additional \$300,000 and therefore has the money to pay for additional hirees.

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission approved the hiring freeze exemption letter as revised by Commissioner Linett.

4. White Paper Number Nine

On a motion by Commissioner Eldridge, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved White Paper Number Nine.

5. Resolution To Go Into Executive Session

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission moved to go into closed Executive Session to discuss the following matters which will become public as follows:

1. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public 15 days after mailing.

2. Investigative Reports of possible violations, which reports will not become public. However, any complaint generated as the result of an Investigative Report will become public 30 days after mailing.

6. Return To Public Session

The Commission returned to Public Session at 10:10.

7. Hearing on 1993 Gubernatorial Public Financing Program

A hearing was conducted on the 1993 gubernatorial public financing program. For a complete record of the hearing, see the transcript as transcribed by a court reporter. Testimony was received from the following:

- Jerry T. Grant, Independent Candidate for Governor;
- Tom Fuscaldo, Independent Candidate for Governor; and,
- Cynthia Berchtold, League of Women Voters of New Jersey Education Fund.

8. Resolution To Go Into Executive Session

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission resolved to go into closed Executive Session for the purpose of considering an investigative report that was the subject of an announcement when the Commission reconvened in public session.

9. Return to Public Session

The Commission returned to Public Session at 11:30.

10. Gubernatorial Investigation Announcement

Chairman McNany read the following announcement: "The Election Law Enforcement Commission has concluded its examination of the utilization of public funds or "street money" disbursements by the two publicly-financed 1993 gubernatorial general election campaigns. The Commission has found no evidence of any irregularities in reporting or violations of the Campaign Reporting Act regarding those disbursements by the two campaigns."

11. Executive Director's Report

A. Staff Activities

Executive Director Herrmann said that on January 25, 1994, he spoke at the 15th Legislative District town meeting hosted by new Assembly members Shirley Turner and Joseph Yuhas.

He reported that on February 8, 1994, Director of Compliance and Information Evelyn Ford conducted a lobbying reporting seminar for the press. Executive Director Herrmann said that this was the first effort at a special

training program to help reporters analyze ELEC's reports to improve the technical accuracy of their stories.

B. National Ethics News

Executive Director Herrmann said that the Indiana Chamber of Commerce is doing research on filing fees to help support its state's ethics agencies.

The Executive Director added that a Massachusetts Ethics Commission probe into alleged ties between state lawmakers and lobbyists may be jeopardized by pending legislation that strips the Commission of its subpoena authority and its ability to protect informants. Executive Director Herrmann said that the bill also enables those under investigation to obtain Commission documents relating to their cases.

C. Legislation

Executive Director Herrmann reported that he testified on ACS for A-655 (Russo) on January 24, 1994, before the Assembly State Government Committee. He noted that the bill provides for five-year Commission terms with a two-term limit, annual selection of a Chair and Vice-Chair from opposite parties by the Commission, and the selection of Commissioner nominees by the Governor from a pool of three chosen by each State Party Chairman.

Executive Director Herrmann said that he testified in favor of longer terms but took no position on the other provisions. He mentioned that the bill was unanimously released from the Committee.

Executive Director Herrmann made the Commission aware of an article by Donald Scarinci in the latest issue of the Seton Hall Legislative Journal on the new Campaign Act. The Executive Director read from the article: "... there are many positive aspects of the amendments. However, without properly funding ELEC to give it the ability to access contributors or employees through a computer search and hire additional staff to assist the public, the New Jersey State Legislature has taken a grant leap in the wrong direction, all in the name of campaign reform."

Chairman McNany requested a copy of the article.

D. White Paper Number Nine

Executive Director Herrmann announced that pursuant to the Commission's earlier vote, a study of legislative spending in the 1987 and the 1991 elections is ready for release. He reported that it is the first such analysis of such activity in the nation as far as staff can determine. He noted that it is ELEC's first white paper to contain computer-generated charts. Executive Director Herrmann thanked Deputy Director Brindle, who authored the study, as well as all other staff who assisted him. Executive Director Herrmann said that the report does not contain any recommendations but that the materials contained in it can be utilized as the basis for a new expenditure regulation.

E. Future Meeting Schedule

The Commission scheduled the following meetings: March 16, 1994 in Maplewood; April 20, 1994, and May 18. The Gubernatorial Public Financing Hearing will continue at 10:00 a.m. at the March 16, 1994 meeting.

Commissioner Linett said that the Commission should debate the public financing issues before the staff begins a public financing report. He said that staff should have an idea of the recommendations the Commission desires to make before beginning this project.

Chairman McNany agreed, stating that the Commission should provide staff with guidance in terms of how it wants to see the program improved.

12. Adjournment

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission voted to adjourn at 11:45 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

FMH/jah