



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

OWEN V. McNANY, III
CHAIRMAN

William H. Eldridge
Vice Chairman

David Linett
Commissioner

NATIONAL STATE BANK BLDG., 12th FLOOR
28 W. STATE STREET, CN 185
TRENTON, NEW JERSEY 08625-0185
(609) 292-8700

FREDERICK M. HERRMANN, PH.D.
EXECUTIVE DIRECTOR

JEFFREY M. BRINDLE
DEPUTY DIRECTOR

GREGORY E. NAGY
LEGAL DIRECTOR

PUBLIC SESSION MINUTES

MARCH 16, 1994

Chairman McNany, Commissioner Linett, Commissioner Eldridge, senior staff, and Director of Public Financing Nedda Gold Massar were present. Chairman McNany left the meeting at 11:10 a.m.

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 8:30 a.m. at the Maplewood Municipal Building, Maplewood, New Jersey.

1. 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.

2. Return to Public Session

The Commission returned to Public Session at 9:50 a.m.

3. Approval of Public Session Minutes of February 15, 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 February 15, 1994.

4. 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:

- Jim Wallwork, Republican Primary Election Candidate for Governor;
- Kenneth R. Kaplan, Libertarian Candidate for Governor;
- Marilyn Arons, Independent Candidate for Governor;
- Jerry T. Grant, Independent Candidate for Governor; and,
- Tom Fuscaldo, Independent Candidate for Governor.

5. Permissible Use of Campaign Funds

Legal Director Nagy summarized a draft of preliminary regulations on the subject of permissible uses of campaign funds which had previously been circulated to the Commissioners.

Executive Director Herrmann said that the formal proposal process can begin in April or May pending a review by the Commission. He added that Legal Director Nagy and he met with staff from the Legislative Joint Committee on Ethical Standards regarding this issue and that he would like to share the proposals with the Legislative Committee if the Commission permits.

For a detailed review of the regulatory proposals please see the memorandum from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Ph.D., Executive Director, dated March 9, 1994 and entitled "Draft Regulations On Permissible Use Of Campaign Funds."

The regulatory proposals are at N.J.A.C. 19:25-6.5, Use or disposition of campaign funds; N.J.A.C. 19:25-6.6 Limitations on permissible expenses; N.J.A.C. 19:25-6.7 Ordinary and necessary officeholding expenses; N.J.A.C. 19:25-6.8 Vehicle use; and, N.J.A.C. 19:25-6.9 Funds remaining unspent at death of candidate.

Commissioner Linett suggested some changes to the text. He suggested that subsection (d)2 of N.J.A.C. 19:25-6.5 Use or disposition of campaign funds be cross-referenced to the subsection that relates to the process of reimbursement to a candidate for the campaign's use of the candidate's personal vehicle. He suggested that staff give further thought to subsection 6 of N.J.A.C. 19:25-6.5, noting that he believed that in certain cases it could be appropriate for a candidate to receive a salary. The Commissioner suggested that at N.J.A.C. 19:25-6.6(a) and (b) the words "or less" be added. Commissioner Linett questioned the definition of staffing at N.J.A.C. 19:25-6.7, Ordinary and necessary officeholding expenses, subsection (c), but said that he understood that an officeholder's staff could not be confined to a district office and that it was necessary to give this broad interpretation to its meaning. The Commissioner added that he believed that, on the other hand, subsection (d) of this section should be changed to include a broader interpretation of the term "operation."

At N.J.A.C. 19:25-6.8(a)2, Commissioner Linett suggested that the rate of reimbursement be the rate allowed by the Internal Revenue Service (IRS) as well as the rate of the New Jersey Department of the Treasury. Finally, at N.J.A.C. 19:25-6.9 Funds remaining unspent at death of candidate, Commissioner Linett suggested that staff explore the possibility of requiring someone other than the candidate to serve as the treasurer of the candidate committee.

Legal Director Nagy reiterated that there is considerable interest in these specific proposals and that he was seeking the Commission's permission to share the proposals with the Joint Committee before the Commission makes a formal proposal at the April meeting.

On a motion by Commissioner Linett, seconded by Commissioner Eldridge and passed by a vote of 3-0, the Commission authorized staff to share the material with the Joint Committee.

Regarding Advisory Opinion Request No. 01-1994, from Assemblyman Joseph S. Suliga, and Advisory Opinion Request No. 02-1994, from Donald J. Lenner, Treasurer for Assemblyman Charles "Ken" Zisa, the Commission determined that it would defer action on same until the regulations are completed. Commissioner Linett directed staff to notify the two requesters of the Commission's action.

6. Vice Chairman Nomination

Chairman McNany nominated Commissioner Eldridge to become Vice Chairman of the Commission.

On a motion by Commissioner Linett, seconded by Chairman McNany and passed by a vote of 3-0, the Commission elected Commissioner Eldridge as Vice Chairman.

Following the departure of Chairman McNany at 11:10 a.m., Vice Chairman Eldridge chaired the meeting.

7. Suggested Legislative Recommendations Concerning Gubernatorial Public Financing

For detailed information please see the memorandum from Nedda Gold Massar, Director of Public Financing, to Frederick M. Herrmann, Ph.D., Executive Director, dated March 7, 1994, which had been circulated to the Commissioners and entitled "Suggested Legislative Recommendations Concerning Gubernatorial Public Financing."

This memorandum summarizes the financial recommendations made by the Commission in its 1992 report following the 1989 gubernatorial elections, and illustrates the impact that those recommendations would have had on the 1993 public financing program if they had been passed into law.

Vice Chairman Eldridge suggested that the Commission postpone action on the public financing proposals until the May meeting. Commissioner Linett

suggested that the Commission discuss the issues in April and make the recommendations in May.

8. Executive Directors' Report

Vice Chairman Eldridge requested that Executive Director Herrmann enter his report into the record.

A. Staff Activities

Executive Director Herrmann said that on February 16, 1994 he spoke to the Rutgers University History Club about governmental careers for history majors.

He added that on February 23, 1994, Compliance and Information Director Evelyn Ford served on an ICLE seminar panel and discussed the new campaign finance law.

Executive Director Herrmann said that he was interviewed on WCTC New Brunswick's Bob Aronson show about lobbying activities in New Jersey. The Executive Director indicated that Senior Compliance Officer Carol Neiman and Assistant Compliance Officer Andrew Mersel conducted a training seminar for over 100 people. The seminar was sponsored by the Essex County Democratic Committee.

Executive Director Herrmann advised the Commission that the New Jersey Political Almanac has recognized ELEC for its assistance in compiling campaign finance data.

The Executive Director noted that "a terrific letter" was received from the Mayor of West Orange telling ELEC "what a pleasure it is to deal with your office." The Mayor, according to Executive Director Herrmann, cited, in particular, the fine work of Associate Director of Compliance and Information Virginia Wilkes Tesser and Associate Compliance Officer Kim Key.

Executive Director Herrmann added that Ren Scott, Channel 2-NYC, interviewed him on camera about ELEC's budget situation and the new law.

B. Budget Situation

Executive Director Herrmann reported that the budget situation is currently bleak. He noted that a freeze on hiring currently exists and that ELEC's new employee target is 27. Executive Director Herrmann added that there exists a freeze on travel outside of the Boston/Washington corridor without special permission. He also said that there is a freeze on equipment purchases and a freeze on consultant contracts, which includes the Commission's counsel position.

Executive Director Herrmann said that the spending controls are not anticipated to be lifted until there is an improvement in the economy. The Executive Director added that, moreover, ten percent of the funds remaining in

most of ELEC's accounts have been frozen. Executive Director Herrmann said that he anticipates a 13 percent cut in ELEC's budget for the next fiscal year, or about \$160,000.

Executive Director Herrmann indicated that ELEC has requested that OTIS perform a feasibility study on its technology needs. The study has already commenced, he said. He noted that the study will supplement the work done by Deputy Director Brindle in White Paper Number Eight: Technology in the Future: Strengthening Disclosure released in October, 1992.

C. Legislative News

Executive Director Herrmann reported that on February 17, A-655 (Russo/Quigley), a bill affecting Commission term limits and restructuring how Commissioners are chosen passed the Assembly by a vote of 72-2. The Executive Director said that the language preventing officeholders and party officials from serving on ELEC was deleted but that the sponsors stated that they would support the provision being reinstated.

Executive Director Herrmann advised the Commission that on February 28 he testified before the Senate State Government Committee on S-332 (DiFrancesco), the filing fee bill, which charges PACs, parties, and candidates to supplement ELEC's budget. He said the bill was unanimously released with an amendment by Senator Byron Baer. Senator Baer's amendment allows a reduction in the filing fee for a candidate in debt by subtracting the previous year's debt from the current year's receipts before assessing a fee based on the higher figure between a candidate's receipts and expenditures.

Executive Director Herrmann said that Edward McCool, Executive Director of Common Cause, told the Committee that this bill was the most important one with which it would deal during this session of the Legislature. Executive Director Herrmann added that United We Stand also testified strongly in favor of the bill.

Executive Director Herrmann reported that on March 7, he testified before the Assembly State Government Committee on various versions of recall legislation. He explained that ELEC has no position on the issue of recall but wished to comment on its campaign financial aspects. Executive Director Herrmann said that he told the Committee that it was important to fit campaign financial rules for recall into the current structure of the Act and not superimpose a new system on the present one.

The Executive Director mentioned that on March 10, he testified on S-332 (DiFrancesco) before the Senate Budget and Appropriations Committee. He said that the bill was released unanimously without amendment and that Senator Inverso said that the bill is so important that he has asked to be its co-sponsor.

D. Future Meetings

The Commission will meet on April 13, 1994 in New Providence at 8:30 a.m., on May 18, 1994, and on June 15, 1994.

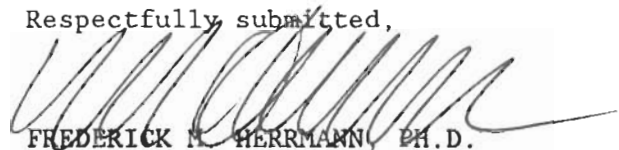
E. Ethics Forms Reminder

Executive Director Herrmann reminded the Commissioners that their ethics forms are due on May 18, with one copy filed with the Executive Commission on Ethical Standards, and one copy with Chief Counsel Peter Verniero.

9. Adjournment

On a motion by Commissioner Linett, seconded by Vice Chairman Eldridge and passed by a vote of 2-0, the Commission voted to adjourn at 11:41 a.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

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