



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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

William H. Eldridge
Chairman
Owen V. McNany, III
Vice Chairman
David Linett
Commissioner
Michael Chertoff
Commissioner

Frederick M. Herrmann, Ph.D.
Executive Director
Jeffrey M. Brindle
Deputy Director
Gregory E. Nagy
Legal Director
James P. Wyse
Counsel

PUBLIC SESSION MINUTES

JULY 14, 1995

Chairman Eldridge, Vice Chairman McNany, Commissioner Linett, Senior Staff, the Counsel, and Deputy Legal Director Nedda Gold Massar were present. Commissioner Chertoff was absent.

Chairman Eldridge 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 3:00 p.m. at the Maplewood Municipal Building, Maplewood, New Jersey.

3. Approval of Public Session Minutes of June 20, 1995

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission approved the Public Session Minutes of June 20, 1995.

4. Executive Director's Report

A. Budget Update

Executive Director Herrmann said that the Commission's FY-96 budget is \$1.4 million, a continuation of FY-95's budget.

He added that as a result of a new Office of Management and Budget (OMB) policy, all agencies will have to submit spending plans on a continuing basis. Under this arrangement, the Executive Director said, ELEC, and other agencies, will initially receive only 50 percent of their budget. According to Executive Director Herrmann, State agencies will no longer receive full funding at the beginning of the fiscal year.

Executive Director Herrmann noted that the hiring freeze is still in effect. He said that the Commission has two clerical vacancies. Executive Director Herrmann mentioned that the staff of ELEC currently numbers 32, which is two fewer than ELEC's highest staff complement in FY-90.

B. Recomputerization Review

Executive Director Herrmann informed the Commission that staff is planning to send a letter to the "Government that Works Committee" inquiring about ELEC's request to receive funding recommended by the Office of Telecommunications and Information Systems (OTIS) for its recomputerization project. He said that ELEC needs to provide for quicker data entry through electronic filing and scanning/imaging technology. The Executive Director indicated that quicker retrieval of data was also necessary. He said that part of the plan would call for off-site as well as on-site public terminals to be used for accessing data.

Executive Director Herrmann advised the Commission that in the meantime the current computer system was upgraded in May at no cost. He noted that Systems Administrator Anthony Chianese procured a new processor for free from the Department of Health. According to the Executive Director the processing speed for ELEC's system has been doubled because of this upgrade.

C. COGEL and NORCOL Conferences

Executive Director Herrmann announced that the Council on Governmental Ethics Laws (COGEL) Conference will be held at the Washington D.C. Vista Hotel from September 17-20. He mentioned that the Northeastern Regional Conference on Lobbying (NORCOL) will be holding its annual session as part of the overall conference.

Executive Director Herrmann said that he will be chairing the NORCOL session and is scheduled to conduct two breakfast panels about creating stronger ethics agencies.

He asked the Commissioners and Counsel Wyse about whether or not they wished to attend.

D. Future Meeting Schedule

The Commission will hold its next meeting on August 15 in Maplewood at 9:00 a.m. The September meeting is scheduled for Friday, September 15, 1995, in Trenton at 2:00 p.m.

5. Adoption of Proposed Regulations Concerning Reporting of Expenditures and Independent Expenditures (Subchapter 12)

A public hearing in regard to the proposed regulations was held at the June meeting. The proposal was published in the New Jersey Register, and the public comment period has expired. No written comments were received.

In a staff memorandum circulated to the Commissioners, staff recommended deletion of proposed N.J.A.C. 19:25-12.7(b) which contained a requirement that persons who pay for campaign advertising must identify themselves. A recent United States Supreme Court opinion (see McIntyre v. Ohio Elections Commission, decided April 19, 1995), and a subsequent ruling by New Jersey's

Attorney General, struck down as violative of First Amendment rights those State requirements which required identification of persons paying for campaign materials. Therefore, staff recommended, and the Commission concurred, that subsection (b) not be adopted.

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission approved the deletion of proposed N.J.A.C. 19:25-12.7(b) and the adoption of the remaining proposed regulations concerning Reporting of Expenditures and Independent Expenditures (Subchapter 12), and directed staff to file the Certificate of Promulgation with the Office of Administrative Law (OAL).

6. Discussion Concerning Commission Structure and Economy

Chairman Eldridge had directed staff to prepare a memorandum on the subject of Commission autonomy and budgeting. He suggested that a hearing be held in August to elicit public comment on the issues.

In regard to the structure of the Commission, the memorandum outlines the make-up of the Commission, the appointment process, and the length of terms. The memorandum notes that in complying with the State Constitution, the Commission is allocated within the Department of Law and Public Safety but is independent of any supervision or control by the Department.

The memorandum from Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Ph.D., Executive Director, dated July 7, 1995, and entitled "Hearing on Commission Autonomy," also reviews past Commission recommendations contained in various Annual Reports and White Papers, and noted several new statutory responsibilities added to the Commission's jurisdiction since 1991.

Finally, the memorandum provides an overview of funding and staffing at the agency since FY-1990.

Chairman Eldridge suggested that the Commission press for an increase in its budget as well as for the adoption of a standard that would establish greater autonomy for the Commission in regard to the budget process.

Chairman Eldridge, in urging the Commission to be proactive, suggested that the Commission's budget be tied to a cents-per-registered voter standard.

Deputy Director Brindle said that the Commission has been one of the few agencies in State government to maintain its current budgetary level and that perhaps it would be better to continue for the time being the traditional approach toward the resolution of budgetary questions.

Executive Director Herrmann agreed, stating that the time may not be right just now for advancing proposals of this type especially before the Commission completes its study of the new campaign law in its entirety.

Commissioner Linett suggested that the focus of a public hearing be to create a method of establishing a budget that is immune from the political

process rather than zeroing in on the issue of an increase in the Commission's budget.

Chairman Eldridge said that in his experience, the timing may never be right for pushing ahead with innovative ideas. He urged the Commission to adopt recommendations that would increase the Commission's budget by developing a new approach to funding.

The Commission then discussed holding a public hearing on autonomy and Commissioner terms at its September meeting instead of August. It was decided to wait until September.

7. Resolution to Go Into Executive Session

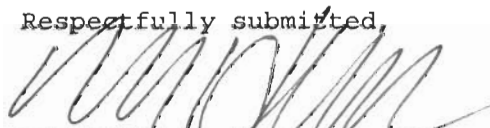
On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 3-0, the Commission resolved to go into closed Executive Session to discuss the following matters which will become public as follows:

1. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public no later than 35 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 no later than 50 days after mailing.
3. A report on written requests for investigations of possible violations, which report will not become public. However, any complaint which may be generated as a result of a request for an investigation will become public no later than 50 days after mailing.

8. Adjournment

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 3-0, the Commission voted to adjourn at 4:30 p.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.