



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

April 23, 2004

Chair Martin, Commissioner Tober, Commissioner English, Counsel Wyse, and Senior Staff were present. Vice Chair Franzese participated by telephone.

1. Open Public Meetings Statement

Chair Martin called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-6 et seq., adequate 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 11:15 a.m. in Trenton.

2. Approval of Public Session Minutes of March 26, 2004

On a motion by Commissioner Tober, seconded by Vice Chair Franzese and passed by a vote of 3-0, the Commissioner approved the Public Session Minutes of March 26, 2004.

3. Executive Director's Report

A. Computer Developments

Executive Director Herrmann reported that the computer and information staff and the systems administration staff have placed two decades of historical legislative campaign finance data on the web site. He said that similar data for local elections including school board races has also been posted. According to the Executive Director, ELEC is one of the very few campaign finance agencies in the nation that provides this kind of information to the media and public. Executive Director Herrmann noted that Assistant Systems Administrator Kim Vandegrift has mastered a documentation procedure for computer incidents that has drawn praise from professionals at the Office of Information Technology. He mentioned that Ms. Vandegrift is a key member of ELEC's computer staff, which has done an outstanding job in creating one of the best campaign finance web sites in the nation. Executive

Director Herrmann stated that later this calendar year the current web site will be replaced with a new version that will guarantee that the Commission maintains its place as a national leader in computerized disclosure.

B. Staff Activities

Executive Director Herrmann advised the Commission that Assistant Compliance Officer Christopher Guear has joined the Review and Investigative Staff as an Assistant Review Officer. According to the Executive Director, Mr. Guear has done an outstanding job for the past decade on the Compliance and Information Staff, on which he specialized in lobbying issues. He said that his experience there should provide a solid foundation for his new duties and allow him to continue his fine contributions to ELEC's work.

The Commissioner's were informed by Executive Director Herrmann that the former public room on the 12th floor has been rebuilt to repair rain damage. He mentioned that thanks are due to Director of Administration Barbra Fasanella and building management for their diligent efforts in restoring this critical space. The Executive Director noted that exterior repairs to the building a few years ago created leaks that had made the large room unusable, adding that now it will be able to provide a much needed additional work area.

Executive Director Herrmann announced that on April 14, 2004, he spoke at Rutgers University's Bloustein School of Planning and Public Policy to the Municipal Charter Network, a group of active and retired persons interested in New Jersey State and local government particularly state-local relationships. The Executive Director centered his remarks around the 25-point ethics reform plan currently before the General Assembly. According to Executive Director Herrmann, former State Senator William Schluter, a member of the group and the sponsor of ELEC's enabling legislation in 1973, had some strong praise for the quality of the commissioners and staff of the Commission.

C. Neil Upmeyer

Executive Director Herrmann advised the Commission that Neil Upmeyer passed away on April 19, 2004. The Executive Director stated that he was ELEC's first Director of Public Financing from 1976-1978. Executive Director Herrmann informed the Commission that his staff and he published in August, 1978, a still-used report on the initial, publicly-financed gubernatorial election, which was held in 1977. The Executive Director added that Mr. Upmeyer went on to serve as the Director of the Division on Elections in the Department of State during the second term of the Byrne administration and that from 1990-1998, he was the President of the Center for Analysis of Public Issues and editor of its magazine, New Jersey Reporter. Executive Director Herrmann advised the Commission that in 1998, he successfully directed Republic Rush Holt's First Congressional Campaign and that over the last half-decade he remained prominent in our field as an advocate of campaign finance reform and the use of computer technology for better disclosure of ELEC data. The Executive

Director said that he had many friends on the ELEC staff and will be greatly missed both as a public figure and as a model citizen.

D. Ethics Form Reminder

Executive Director Herrmann reminded the Commissioners that their ethics forms are due to be filed with the Executive Commission on Ethical Standards by May 17, 2004. He mentioned that the filed copy needs an original signature and notarization.

E. Spring-Summer Meeting Schedule

- May 18, 2004 at 11:00 a.m. in Trenton;
- June 22, 2004 at 11:00 a.m. in Trenton; and,
- July 27, 2004 at 11:00 a.m. in Trenton.

Commissioner English arrived at this point.

4. Proposed Amendments and New Rules Concerning Gubernatorial Public Financing

Legal Director Massar summarized the draft text, which had been circulated to the Commissioners, of proposed new rules and amendments to the gubernatorial public financing provisions of the regulations. The recommendations for amendments and new rules are based upon comments received by the Commission during public hearings conducted in 2002, the experience of Commission staff in administering the gubernatorial public financing program in past elections, changes in the law, advisory opinions issued concerning public financing, and litigation concerning the public financing program.

Upon approval, the proposal notice will be submitted to the Office of Administrative Law (OAL) for publication in the New Jersey Register in June. Secondary notice will be accomplished by posting the proposal on the Commission's Internet web site and in the Commission's public room, by mailing a notice of the proposal to interested individuals, and by circulating a press advisory to the State House press corps.

A public hearing will be announced for the Commission's July, 2004 meeting in Trenton, and the 60-day period for receipt of written public comments will expire in August. Under this proposed schedule, the rules will be ripe for adoption consideration at the Commission's September, 2004 meeting, and the anticipated effective adoption and publication date will be in October, 2004.

Staff recommends proposal of the following new rules:

- 19:25-15.17A Reporting of issue advocacy organization information
- 19:25-15.28C Determination of independence or coordination of an expenditure
- 19:25-15.47A Disposal of assets
- 19:25-16.18A Reporting of issue advocacy organization information
- 19:25-16.29B Determination of independence or coordination of an expenditure

Staff recommends amendments to the following provisions of the regulations:

- 19:25-15.3 Definitions for this subchapter
- 19:25-15.17 Matching of funds
- 19:25-15.18 Dates of submission
- 19:25-15.21 Receipt of public funds
- 19:25-15.24 Use of public funds
- 19:25-15.29 Coordinated expenditures
- 19:25-15.42 Maintenance of records; audit
- 19:25-15.49 Statement of candidates electing to participate in debates
- 19:25-15.50 Application to sponsor debates
- 19:25-15.65 Complaints alleging violation of general election expenditure limit
- 19:25-16.3 Definitions for this subchapter
- 19:25-16.15 Contributions; primary and general elections
- 19:25-16.18 Matching of funds
- 19:25-16.19 Dates of submission
- 19:25-16.21 Receipt of public funds
- 19:25-16.25 Use of public funds
- 19:25-16.30 Coordinated expenditures
- 19:25-16.32 Maintenance of records; audit
- 19:25-16.38 Statement of candidates electing to participate in debates
- 19:25-16.39 Application to sponsor debates
- 19:25-16.48 Complaint alleging violation of primary election expenditure limit

The Commission discussed the recommended amendments to N.J.A.C. 19:25-15.65 and 16.48, concerning procedures for determining whether or not an emergent expenditure limit complaint is facially deficient. The Commissioners agreed that the procedures should not include a determination of whether or not there was sufficient time to conclude the litigation before the election.

On a motion by Commissioner Tober, seconded by Commissioner English and passed by a vote of 4-0, the Commission voted to propose the amendments to the gubernatorial public financing regulations and new rules recommended by staff, with the modification concerning the emergent complaint proceedings and directed staff to file the proposal at the Office of Administrative Law.

5. Resolution to go into Executive Session

On a motion by Commissioner Tober, seconded by Commissioner English and passed by a vote of 4-0, the Commission resolved to go into Executive Session to discuss the following matters, which will become public as follows:

- A. Final Decision Recommendations in violation proceedings which will not become public. However, the Final Decisions resulting from those recommendations will become public not later than seven business days after mailing to the named respondents.
- B. 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 not later than seven business days after mailing to the named respondents.

6. Return to Public Session

On a motion by Commissioner Tober, seconded by Commissioner English and passed by a vote of 4-0, the Commission voted to return to Public Session.

7. Annual Report

On a motion by Commissioner Tober, seconded by Commissioner English and passed by a vote of 4-0, the Commission voted to approve distribution of the 2003 Annual Report.

8. Adjournment

On a motion by Commissioner Tober, seconded by Commissioner English and passed by a vote of 4-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz