



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

THEODORE Z. DAVIS
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PUBLIC SESSION MINUTES

July 19, 2005

Chair English, Vice Chair Tober, Commissioner Burstein, and Senior Staff were present. Commissioner Davis and Counsel Wyse were absent.

1. Open Public Meetings Statement

Chair English 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 11:30 a.m. in Trenton.

2. Adoption of Proposed New Rules to Implement New Jersey Fair and Clean Elections Pilot Project

At the April 5, 2005 meeting, the Commission approved the proposal of new rules to implement the New Jersey Fair and Clean Elections Pilot Project. The proposed new rules were published in the New Jersey Register on May 16, 2005, and were summarized in the minutes of the June 21, 2005 meeting.

Staff recommended that the Commission approve adoption of the proposed Clean Elections rules without change and with the responses, circulated to the Commissioners, to the comments received at the June 21, 2005 public hearing and to the written comments received by the July 15, 2005 deadline. Staff further recommends that the Commission direct staff to file the Notice of Adoption with the Office of Administrative Law (OAL).

Chair English recognized former State Senator and Chair of the Citizens Clean Elections Commission William E. Schluter for the purpose of commenting on the regulations and the overall clean elections process.

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Chair William E. Schluter indicated that he was pleased with the proposed regulations, stating that he was looking forward to working with the Commission on this very important pilot program. Chair Schluter said that ELEC staff has been attending his Commission meetings and that a very cooperative working relationship has emerged. He also said that he would like to commend Professor Ingrid Reed of the Eagleton Institute of Politics at Rutgers University for her interest in the project. He noted that Professor Reed will be monitoring its progress and undertaking polling research.

Chair English recognized Professor Ingrid Reed. Professor Reed emphasized the fact that the program is a pilot project and that this year's election will enable all to learn from the process. She also said that she was delighted that there is so much interest in the process. Professor Reed did caution, however, that independent expenditures could pose a problem and possibly serve to undermine the program. She urged the Commission to address this issue and act quickly in the event of attempts by groups to undermine the process.

Commissioner Burstein stated that the situation was analogous to the Court system which treats election matters with dispatch. He said the Commission should declare a similar intent with regard to Clean Elections matters.

Vice Chair Tober agreed and suggested that this fact be clarified in the motion to approve the recommendations.

Commissioner Burstein asked about the issue of a Clean Election candidate's withdrawing from the program.

Executive Director Herrmann stated that the Citizens Commission would make any decision with regard to that issue.

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to adopt the Clean Elections regulations without change and to direct staff to file the adoption at the Office of Administrative Law.

On a motion by Vice Chair Tober, seconded by Commissioner Burstein and passed by a vote of 3-0, the Commission voted to hear appeals of Clean Elections matters in an expedited fashion.

3. Selection of 2005 Gubernatorial General Election Debate Sponsors

Legal Director Massar stated that while it is possible that there will be no publicly-financed gubernatorial candidates in the 2005 general election, the Commission is nevertheless required by the New Jersey Campaign Contributions and Expenditures Reporting Act to select sponsors for two 2005 gubernatorial general election candidates' debates at its July 19, 2005 meeting. The Reporting Act requires that general election debate sponsors be selected by August 1, 2005, which date is prior to the September 1, 2005 deadline for a 2005 general election gubernatorial candidate to submit documentation to qualify to or elect to debate. The Commission must select sponsors for two debates in anticipation that debates may be required in the 2005 general election. According to Legal

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Director Massar, the Reporting Act provides that no debate is required to be held if no candidate or only one candidate is required to or elects to participate in the general election debates.

The applications were received from:

- League of Women Voters of New Jersey Education Fund, WPVI-TV (Philadelphia), WABC-TV (New York), and the College of New Jersey;
- Monmouth University, Gannett, and Comcast;
- Montclair State University;
- New Jersey Network (NJN), the Philadelphia Inquirer, New Jersey State Chamber of Commerce, New Jersey State League of Municipalities, and the Gannett New Jersey newspaper chain; and,
- WNBC Newschannel 4 (New York), WNJU Telemundo, and WCAU-TV10 (Philadelphia).

Representatives for each applicant made presentations to the Commission. The representatives were:

- H. Patricia Tieman, Debate Manager, League of Women Voters of New Jersey Education Fund, and Linda Munick, Director of Public Affairs, WPVI-TV;
- Paul Dement, Director of Community and Government Relations, Monmouth University, and Tess Kelly, Co-Executive Producer, CN8 the Comcast Network;
- Gabrielle Charette, Director of Government Relations, Montclair State University;
- William Jobs, Director of News & Public Affairs, New Jersey Network, and Kent Manahan, Senior Anchor, New Jersey Network; and,
- Jamie McShane, Producer, WNBC Newschannel 4.

4. Approval of Public Session Minutes of June 21, 2005

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission approved the Public Session Minutes of June 21, 2005.

5. Executive Director's Report

A. Fiscal Year 2006 Budget

Executive Director Herrmann reported that ELEC has received a "continuation" operating budget for FY-2006. He stated that the Commission will have \$5.036M with which to work. Moreover, he added, the Commission has been given \$1.5M to provide the certified candidates in the Clean Elections Pilot Project. Executive Director Herrmann mentioned as well that \$425,000 was budgeted for the Ballot Statement Program and \$600,000 to administer public funding.

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The Executive Director said that to paraphrase the late Sociologist E. Digby Baltzell, "perhaps the final test of the ethical values of any political community is how well its governmental ethics agencies are supported financially by its elected officials." He expressed the point of view that under this test, New Jersey's Governor and legislators passed with flying colors!

B. Staff Activities

Executive Director Herrmann advised the Commission that on June 28, 2005, the 8th floor was added to ELEC's office space. He noted that various clean up activities such as painting, plastering, rewiring, and carpet cleaning are in progress in preparation for moving staff to the floor. The Executive Director indicated that additional furniture is on order and will be ready in time for staff usage.

Executive Director Herrmann informed the Commission that over the summer, staff will be very busy hiring almost thirty new staff members to assist in the administration and enforcement of the new campaign finance and lobbying laws that were enacted last summer. He stated that every section is scheduled to be receiving additional staff resources for the biggest growth in personnel in Commission history.

The Executive Director expressed special thanks to Deputy Director Brindle, Director of Administration Gary Alpert, and the entire Administration Section staff for all of their magnificent efforts in planning for the addition of more personnel and more space.

Executive Director Herrmann alerted the Commission to the fact that Director of Administration Alpert has also put together an attractive "new employees orientation information packet," noting that it is an important contribution to the standardization and professionalization of the in-processing of new employees. He said that the packet contains the twenty forms that all new employees need to have completed at the beginning of their employment. Executive Director Herrmann advised the Commission that thanks to Director Alpert all forms are now given out as part of a uniform process and a checklist sheet allows for better control of the orientation procedure.

Executive Director Herrmann reported that due to the fine efforts of Legal Director Massar and Webmaster Maryanne Garcia, a clean elections information section has been added to ELEC's web site. He advised the Commission that it contains a link to the Clean Elections Commission's web site, ELEC's regulations, and all of the new forms candidates need to comply with the program. According to the Executive Director, the site will be continuously upgraded during the fall to add more material such as a voter information guide and debate news as the election progresses.

Executive Director Herrmann informed the Commission that treasurer training is continuing over the summer in the office during the day and at Mercer County Community College at night. He said that so far, Compliance Director Ford and her staff have trained 242 treasurers, noting that in the fall, training will continue at ELEC in our new high tech training room on the 8th floor and at various state and county

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college locations throughout the State. The Executive Director mentioned that the Compliance Division is also working with the Computer Section in developing an Internet treasurer training program which should be operational by the end of the year. He congratulated Compliance Director Ford, Director of Systems Administration Carol Neiman, and their staffs for all of their outstanding work in the training area.

Executive Director Herrmann indicated that on July 6, 2005, staff attended the third annual ELEC night at the Trenton Thunder and that a good time was had by all.

C. COGEL Conference Update

Executive Director Herrmann announced that this year's conference will be held in Boston from December 4 to December 7, 2005. He added that staff will provide the Commissioners with conference information in their September agenda mailing. He said that for planning purposes, it would be most helpful if Commissioners could let the staff know at the September meeting if they wish to attend. Executive Director Herrmann indicated that in past years, ELEC has been permitted to send five attendees.

D. Fall Meeting Schedule

- August 16, 2005 (if needed) at 11:00 a.m. in Trenton;
- September 20, 2005 (Lobbying Regulations Public Hearing) at 11:00 a.m. in Trenton;
- October 18, 2005 at 11:00 a.m. in Trenton; and,
- November 15, 2005 at 11:00 a.m. in Trenton.

6. 2005 Primary Election Public Financing Report

Legal Director Massar reported on gubernatorial public matching funds distributed since June 20, 2005, as summarized in the chart below:

| <u>Candidate</u> | <u>Submission Date</u> | <u>Submission #</u> | <u>Public Funds Deposited</u> |
|------------------|------------------------|---------------------|-------------------------------|
| Paul DiGaetano | May 31, 2005 | 6 | \$7,687.50 |
| Steven Lonigan | June 14, 2005 | 9 | \$28,691.00 |
| John Murphy | June 7, 2005 | 8 | \$34,720.00 |
| Robert Schroeder | May 31, 2005 | 8 | \$21,200.00 |
| | June 7, 2005 | 9 | \$54,170.00 |

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Legal Director Massar said that to date, public matching funds totaling \$5,891,294.12 have been deposited for 2005 gubernatorial primary election candidates as follows:

| <u>Candidate</u> | <u>Total Public Funds Deposited</u> |
|------------------|-------------------------------------|
| Todd Caliguire | \$488,110.00 |
| Paul DiGaetano | \$728,227.50 |
| Steven Lonegan | \$720,708.76 |
| John Murphy | \$978,955.42 |
| Robert Schroeder | \$1,295,812.10 |
| Bret Schundler | \$1,679,480.34 |
| TOTAL: | \$5,891,294.12 |

Legal Director Massar added that Candidate Bret Schundler filed a submission (#10) on June 28, 2005, and Candidate Steven Lonegan filed a submission (#10) on July 12, 2005. She stated that staff will continue to review the candidates' reports to verify the need for additional funds before approving distribution of further matching funds.

7. Resolution to go into Executive Session

On a motion by Vice Chair Tober, seconded by Commissioner Burstein and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and 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.
- C. A report on requests from the public for investigations of possible violations, which report will not become public in order to protect the identity of informants and maintain the integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, will become public not later than seven business days after mailing to the named respondents.

Return to Public Session

8. Selection of 2005 Gubernatorial General Election Debate Sponsors, continued

Chair English commented on the excellent presentations by the sponsor applicants and thanked the individuals for seeking to sponsor the debates, stating that each was prepared to provide an essential public service.

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Commissioner Burstein commented that the experience of debate moderators in covering New Jersey political news was very important.

Vice Chair Tober indicated that his primary concern was that a gubernatorial debate be shown in prime time.

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission selected the following sponsors:

- League of Women Voters of New Jersey Education Fund, WPVI-TV Philadelphia, WABC-TV New York, and the College of New Jersey; and,
- New Jersey Network (NJN), the Philadelphia Inquirer, New Jersey State Chambers of Commerce, New Jersey State League of Municipalities, and the Gannett New Jersey Newspaperchain.

9. Adjournment

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to adjourn at 1:30 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz