



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

September 20, 2005

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

1. Open Public Meetings Statement

Vice Chair Tober 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 11:00 a.m. in Trenton.

2. Participation in the Statutory 2005 Gubernatorial Candidates' Debates

Staff received an Advisory Opinion Request on September 15, 2005, from Michael Latigona, a 2005 general election gubernatorial candidate. Candidate Latigona asked the Commission to extend the September 1, 2005 deadline to prove qualification to participate in the gubernatorial candidates' debates.

Legal Director Massar explained the staff recommendation that, pursuant to N.J.S.A. 19:44A-6f, an advisory opinion is not the appropriate mechanism for responding to Candidate Latigona. Candidate Latigona has asked for an extension of a deadline relevant to the gubernatorial candidates' debates and is not seeking advice concerning the legality of future contemplated activity. Also, there is no need to protect him from imposition of a penalty for a violation of the Campaign Reporting Act, which protection is afforded by the advisory opinion process. Staff recommended, however, that the Commission discuss Candidate Latigona's request because it concerns the gubernatorial debates.

With regard to the request, Legal Director Massar stated that staff believes it was the intent of the Legislature, when the debate requirements were first established in the 1989 amendments to the Campaign Reporting Act, to establish a fixed and certain date by which each gubernatorial candidate in the general election must demonstrate the fundraising

viability of his or her candidacy, specifically that the candidate has raised and expended a fixed threshold amount. That amount in 2005 is \$300,000.

Further, she said, staff believes that the 1989 amendments must be read to link the deadline for a candidate to apply for debate qualification with the earliest possible date for the first interactive debate. Any other reading would frustrate the legislative intent to provide a reasonable time period and an orderly process for the candidates, the selected debate sponsors, and the Commission. The Commission in particular needs time to determine that each candidate is qualified, and sponsors need time to establish rules for successful debates.

Legal Director Massar stated that staff does not believe there is a basis in the Campaign Reporting Act or the regulations to suggest that a gubernatorial applicant has an option to submit evidence of qualification later than the September 1, 2005 date. She said that to relax the qualification deadline, as suggested by Candidate Latigona, would result in an open-ended process for determining candidate qualification for public funding and for participation in the statutory gubernatorial debates.

Vice Chair Tober invited Mr. Michael Latigona to comment.

Mr. Latigona stated that it was his belief that the Commission has said that it wanted to be all inclusive in terms of debate participation by candidates. He mentioned that Acting Governor Richard J. Cody, in this same spirit, relaxed the deadline for qualifying for the Clean Elections Program.

Mr. Latigona stated that his campaign has striven to follow the letter of the law. He said that if he had been aware that the Commission would allow Candidate Pawlowski to loan himself money to qualify for the debates, he would have done the same thing. Mr. Latigona said that he was asking for a new fixed date in order to do the same thing as Mr. Pawlowski and therefore qualify to participate in the gubernatorial debates.

On a motion by Commissioner Burstein, seconded by Commissioner Davis and passed by a vote of 3-0, the Commission accepted the staff recommendation to deny Candidate Latigona's request for an extension of the deadline to qualify for the 2005 general election gubernatorial candidates' debates.

3. Public Hearing Concerning Reproposed Amendments and New Rules to Implement New Lobbying Laws

Vice Chair Tober announced that a public hearing was being conducted to elicit public comments on reproposed new rules and amendments to Commission regulations to implement legislation which significantly changes the scope of lobbying activity and reporting in New Jersey. The reproposed new rules and amendments concern, among other topics: expansion of lobbying to include "governmental processes," prohibition of contingency fee lobbying, reporting of "grassroots lobbying," and random audits of the records of governmental affairs agents.

The reproposal notice appeared in the New Jersey Register on August 1, 2005, and is available on the Commission's website at www.elec.state.nj.us.

A court reporter was present to record the Public Session discussion. The following persons appeared and offered testimony:

- Richard Stokes, Esq., Regional Manager & Counsel, Property Casualty Insurers Association;
- John Rogers, Vice President/Human Resources, New Jersey Business & Industry Association;
- Peter Allen, Executive Director, Consulting Engineers Council of New Jersey;
- Amy Hansen, Policy Analyst, New Jersey Conservation Foundation;
- Linda Czipo, Executive Director, The Center for Non Profit Corporations, Inc.; and,
- Paul Josephson, Esq., New Jersey State Bar Association.

The transcript will be available to the public for inspection upon request.

On a motion by Commissioner Davis, seconded by Commissioner Burstein and passed by a vote of 3-0, the Commission adjourned the public hearing.

4. Adjournment

On a motion by Commissioner Davis, seconded by Commissioner Burstein and passed by a vote of 3-0, the Commission voted to adjourn at 12:10 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz