



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

JERRY FITZGERALD ENGLISH
Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185

(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)

Website: <http://www.elec.state.nj.us/>

FREDERICK M. HERRMANN, Ph.D.
Executive Director

JEFFREY M. BRINDLE
Deputy Director

CAROL L. HOEKJE
Acting Legal Director

EVELYN FORD
Compliance Director

JAMES P. WYSE
Legal Counsel

PUBLIC SESSION MINUTES

November 20, 2007

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

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 11:00 a.m. in Trenton.

2. Approval of Public Session Minutes of October 23, 2007

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 October 23, 2007, with amendments as indicated.

3. Executive Director's Report

A. Acting Legal Director

Executive Director Herrmann announced to the Commissioners that Deputy Legal Director Carol Hoekje would be serving as the Commission's Acting Legal Director.

B. Computer Developments

The Executive Director reported that according to a new National Study Grading State Disclosure of Campaign Financing information over the Internet, ELEC is running one of the “Best Overall Disclosure Programs” in the nation. He said that the State’s ranking moved from 17th in 2005 to 10th in 2007, and that this improvement is particularly impressive since ELEC has actually lost computer funding during this period. According to Executive Director Herrmann, the study noted that “gains made in electronic filing and website usability categories moved New Jersey into the top ten overall in 2007.”

Executive Director Herrmann stated that ELEC earned an “A” for its electronic filing program because the Commission “provided over 30 classroom-style trainings on electronic filing in 2006 and continues to offer additional resources for filers, both online and through a dedicated help desk.” The Executive Director advised the Commission that the report states that ELEC’s “website offers a comprehensive database of contributors that is searchable by contributor name, zip code, employer, and amount Search results are sortable and can be downloaded for offline analysis.” He noted, moreover, that the study praises the Commission’s “excellent series of white papers that analyze political financing trends going back to 1977, . . . the . . . overviews and charts of current campaign financing activity,” and the ability of “users to create custom candidate listings by office, district, party affiliation, and election.” Finally, Executive Director Herrmann added, the report highlighted the website’s “excellent overview of campaign statistics.”

The Executive Director noted that in early November, USA Today reported that New Jersey ranked in the top tier of States that “are toughening their campaign financing reporting requirements and making the information more accessible to the public.”

C. Staff News

Executive Director Herrmann informed the Commission that on October 30, 2007, the staff released data from the 11-day general election reports for this year’s legislative races. He mentioned that about two weeks before the election, \$39.8 million had been raised and \$27 million had been spent. According to the Executive Director, these figures, compared to the \$34.7 million raised and \$23.2 million spent in 2003, the last election year in which both houses were running, indicate that the 2007 legislative election will be the most expensive in State history. He mentioned that Joe Donohue, in the Star-Ledger, reported that Statewide spending has already jumped past one million dollars in seven districts. The Executive Director said that once again, ELEC’s data was put to good use by various media outlets that ran numerous election stories following the data’s release. Executive Director Herrmann expressed special thanks to Compliance Director Ford, Director of Information Technology Carol Neiman, and their staffs for compiling this data during a very short and busy turnaround period over the weekend before the data’s release.

Public Session Minutes

November 20, 2007

Page 3

The Executive Director announced that the Special Programs Section reports that there are now 1,755 pay-to-play filers with the Commission and that the Section will be hosting three training sessions in the new year before the next filing date on March 30, 2008.

Executive Director Herrmann advised the Commission that the Compliance Division reports that it has now trained 997 treasurers and has processed the filings of 1,040 lobbyists. He noted that, in addition, the division's electronic filing training staff had a very busy fall running four seminars for mandatory and voluntary filers. The Executive Director indicated that the 2007 general election was the first one held under ELEC's new regulation requiring electronic filing for legislative candidates raising more than \$100,000.

Executive Director Herrmann reported to the Commission that on November 2, 2007, he was interviewed by Bob Hennelly of WNYC radio on the 2007 legislative elections. He mentioned that he went over the spending trends in the races and also the Clean Elections Program. According to the Executive Director, the reporter was particularly interested in the concept of "rescue money" and that he explained to him how it worked. The Executive Director was also asked why a legislative candidate would spend large amounts of money for a position that only pays \$49,000 per year. Executive Director Herrmann said that the legislative salary figure has nothing to do with campaign expenditures which are driven by the high cost of TV, radio, direct mail, polling, and consulting.

Executive Director Herrmann informed the Commission that he has been renamed to the Council on Governmental Ethics Laws (COGEL) Publications Committee and that he also continues to serve as the Book Review Editor of the Guardian, a position he has held since 1993.

D. Future Meeting Schedule

- The final Commission meeting of the year will be held on December 18, 2007.
- Executive Director Herrmann presented the Commissioners, for their approval, the 2008 proposed meeting schedule.

Vice Chair Tober asked about the success of electronic filing.

Director of Information Technology Neiman said that about 100 candidates filed electronically. She said that legislative candidates were required to file electronically if raising or spending \$100,000 or more.

Professor Ingrid Reed of the Eagleton Institute stated that she understands that the public hearing on Clean Elections on December 18th will be held in the Commission's meeting room. She asked if the hearing could be held in the State House where it would be more accessible to the public and where more parking is available.

Chair English stated that the Commission would take the suggestion under consideration. She also suggested that interested individuals be invited.

4. Report on the 2007 Fair and Clean Elections Pilot Project

Special Programs Director Amy Davis said that on October 26th and 30th a request was received for rescue money from Candidate Jason Scheurer for \$49,967.50. Director Davis said that Candidate Scheurer's request stated that he had been the subject of an independent expenditure for "unfavorable campaign publicity" since he was not invited to participate in a debate on "News 12 New Jersey" on October 25, 2007. Director Davis reported that Commission regulations specifically exclude news programming costs, such as costs associated with the October 25th debate, from the definition of "expenditure" and that as a result staff denied Candidate Scheurer's request for rescue funds.

Director Davis added that on October 29th a request for rescue money from Candidate Wayne DeAngelo was received. She said that based upon the candidate's certification and evidence submitted of an independent expenditure that subjected the candidate to "unfavorable campaign publicity," staff provided Candidate DeAngelo with \$14,254.77 in rescue money.

Director Davis mentioned that the Special Programs staff informed all certified clean candidates and treasurers regarding the use of clean elections funds following the general election. She added that each candidate must certify his or her 20-day postelection report or first quarterly postelection report as the final report for the 2007 general election.

Director Davis announced that a public hearing concerning the 2007 Clean Elections Pilot Project will take place at the Commission's December 18th meeting.

Vice Chair Tober queried as to the nature of the independent expenditures that resulted in rescue money to Candidate DeAngelo.

Special Programs Director Davis stated that a flyer opposing Assemblywoman Linda Greenstein and supporting the Republican candidates was distributed by Commonsense America.

Ms. Marilyn Carpinteyro of Citizen Action asked whether or not the Clean Elections Report will contain recommendations.

Director Davis stated that the statute prohibits the Commission from making any recommendations.

Professor Reed said that Eagleton Institute undertook several impressive surveys during the campaign. She said the surveys, underwritten by the Chamber of Commerce, the Fund for New Jersey, and an Eagleton grant involved the Clean Elections Program. Professor Reed said a press conference will be held on Tuesday, November 27th, at which time an independent assessment of the program will be provided.

Public Session Minutes

November 20, 2007

Page 5

Chair English said that she realizes the Commission cannot make a recommendation but that she hopes the issue of the wheeling of Clean Elections money will be addressed. She said she read in the press that legislation along these lines will be introduced.

Chair English encouraged the public to attend the December 18th public hearing.

Professor Reed suggested that a second hearing be held or that the record be kept open to allow testimony from those who cannot attend.

Chair English said that the record will be kept open for a reasonable time period and that the Commission always has the option of holding additional hearings.

Commissioner Burstein suggested that everyone keep in mind that a new Legislature is coming in and that the Commission can play a useful role in educating new members about the program.

5. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Vice Chair Tober 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.

6. 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 12:30 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz