



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

AMOS C. SAUNDERS
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Legal Director

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Compliance Director

JAMES P. WYSE
Legal Counsel

PUBLIC SESSION MINUTES

September 15, 2009

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

The meeting convened at 11:00 a.m. in Trenton.

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.

2. Approval of Public Session Minutes of July 21, 2009

On a motion by Vice Chair Tober, seconded by Commissioner Saunders and passed by a vote of 4-0, the Commission approved the Public Session Minutes of July 21, 2009.

3. Approval of Public Session Minutes of August 31, 2009

On a motion by Vice Chair Tober, seconded by Commissioner Saunders and passed by a vote of 4-0, the Commission approved the Public Session Minutes of August 31, 2009, as amended by Chair English concerning the 2009 general election gubernatorial debates and the lieutenant gubernatorial debate to include a summary of the public session discussion.

4. Approval of Public Session Minutes of September 2, 2009

On a motion by Vice Chair Tober, seconded by Commissioner Burstein and passed by a vote of 4-0, the Commission approved the Public Session Minutes of September 2, 2009, as amended by Vice Chair Tober.

5. Executive Director's Report

A. Off-Site Candidate/Treasurer Training Seminars

Executive Director Brindle provided a summary of a new off-site candidate and treasurer training program, created with the assistance of Director of Compliance and Information Evelyn Ford. The Executive Director indicated that the two off-site training seminars will take place at the Sheraton Atlantic City Convention Center on September 19, 2009 at 10:00 a.m., and the Days Hotel Conference Center of East Brunswick on September 21, 2009, at 6:30 p.m.

Executive Director Brindle expressed a desire to facilitate more off-site training seminars in the future.

Executive Director Brindle indicated that in-house treasurer training sessions will take place on September 15, 2009, and September 30, 2009, and that training will also be available online.

Executive Director Brindle also informed the Commission that the date established for political party and continuing political committee training is October 1, 2009 at 10:00 a.m. The Executive Director added that electronic filing training, facilitated by Compliance Director Ford, will take place on September 23, 2009 at 10:00 a.m. The Executive Director added that both sessions would be in-house.

Executive Director Brindle reiterated that training is mandatory for treasurers of gubernatorial and legislative candidates and is encouraged for all others.

Executive Director Brindle introduced a new initiative on the part of the Commission to reach out to state, county, and municipal party committees and coordinate more training sessions with both major parties. Executive Director Brindle related successful meetings between the two state party chairmen, Director of Compliance and Information Ford, and him to facilitate this effort. The Executive Director informed the Commission that Senior Compliance Officer Kim Key will be coordinating training at the September 25, 2009 convention of the New Jersey Democratic State Committee in Atlantic City.

Executive Director Brindle noted the importance of this initiative due to the complexity of the laws and subsequent reluctance of some individuals to volunteer to serve on committees.

B. Sunset Regulations

The Executive Director informed the Commission that by law, Commission regulations must be renewed every five years; the date of expiration is May 5, 2010. The Executive Director noted that renewal is often a matter of addressing housekeeping issues, but requires considerable work from staff. He indicated that Associate Legal Director Michelle Levy will coordinate this effort in collaboration with Legal Director Carol Hoekje. The

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Executive Director stated that the timeline for the process anticipates proposals ready for the November 17, 2009 meeting, with public hearings in February or March, and adoption by May, 2010.

Commissioner Burstein asked if during the process of renewal, staff will address issues that arose during NJN-Public Television & Radio's request for a debate date change as discussed in the September 2, 2009 meeting.

Legal Director Hoekje stated that staff anticipates addressing the Public Financing Gubernatorial regulations after completion of the Sunset rulemaking process.

Executive Director Brindle added that public hearings for the Public Financing Program, slated to occur in March, 2010 will assist in the process.

C. Public Financing Program - Public Hearing

Executive Director Brindle informed the Commission that the Public Financing Program public hearing shall occur in March; campaigns, interested parties, and the public will be invited to attend and provide testimony. The Executive Director stated that following the public hearings, the Commission will review areas for any changes in administration and regulation of the programs.

D. Legislation

According to Executive Director Brindle, A-3214, sponsored by Assemblyman Joseph Cryan and Assemblyman David C. Russo, was signed into law on August 6, 2009. The Executive Director informed the Commission that this law eliminates the requirement that county clerks send sample ballots to inactive voters. He added that past law required ballots to be sent out for four years, and that the new regulation should help control costs and aid reimbursements to county clerks for ballot statements. The Executive Director indicated that ballot statements were submitted on August 17, 2009, reviewed by Special Programs Director Amy Davis and her staff, translated into Spanish and sent to county clerks. The Executive Director noted that \$600,000 was allocated for the ballot program, and \$7.88 million allocated for the Public Financing Program.

E. Citizens United v. Federal Election Commission

Executive Director Brindle advised the Commission on this case before the United States Supreme Court. He informed the Commission that it involves a documentary on former presidential candidate Hillary Clinton that was restricted from distribution by a decision of the Federal Election Commission (FEC), and that argument concerns whether the FEC was empowered to do so under Section 203 of the Bipartisan Campaign Reform Act (BCRA). According to the Executive Director, the Court is examining supplemental briefs in the 1990 case of Austin v. Michigan Chamber of Commerce, which authorizes Congress to restrict corporate campaign expenditures. Executive Director Brindle anticipated a decision loosening restrictions on corporate expenditures, but could not predict the extent to which such

restrictions may be lifted. The Executive Director noted that this decision may possibly impact on the status of campaign finance regulation for insurance companies, public utilities, and banks, as well as “Pay-to-Play” regulation.

F. Monthly Newsletter ELEC-Tronic

Executive Director Brindle stated that the Commission newsletter shall be issued on a monthly basis and asked the Commissioners for any suggestions or input.

Chair English suggested the creation of a column for the Executive Director to present priority issues to the public. The Chair anticipated that such a column would be an additional source of information for the public to access information about the work of the Commission.

Chair English proposed that a special section advising candidates spending little or no campaign funds of their reporting obligations be published in a future issue of the newsletter in advance of the next primary election.

G. Public Service Announcement

Executive Director Brindle informed the Commission that Chair English would record a public service announcement after the meeting was adjourned. The Executive Director stated that the recording would be made with the assistance of Director of Information Technology Carol Neiman and Assistant Computer Technician Ken Colandrea, and uploaded onto the “YouTube” video sharing website with a link to the Commission’s homepage.

Chair English reiterated that the Commission should seek to distribute information to the public using as many avenues as possible, and through such effort help reduce the number of minor reporting problems so that staff could focus on more complex matters.

Commissioner Burstein noted that the Executive Director predominately makes public statements on behalf of the Commission, but inquired whether Commissioners could make public appearances on behalf of the Commission for local good government and similar events without causing confusion.

Chair English inquired if any restrictions on public speaking apply to the Commissioners.

Counsel Wyse noted the Commission’s policy concerning press inquiries.

Vice Chair Tober stated that speaking engagements would most likely fall under existing ethics regulations.

Executive Director Brindle noted that meals were a more immediate ethics issue, but one that could be easily managed by placing all speaking-related meals on record and checking for ethical compliance.

Commissioner Saunders suggested that ethical inquiries in reference to public speaking and meals should be brought to Executive Director Brindle and staff.

Executive Director Brindle noted that the Commission ethics liaison is Steven Dodson, Director of Finance and Administration.

Commissioner Saunders remarked that maintaining transparency aided the Commission.

H. Winter Meeting Schedule

- October 20, 2009 at 11:00 a.m. in Trenton;
- November 17, 2009 at 11:00 a.m. in Trenton and,
- December 15, 2009 at 11:00 a.m. in Trenton.

6. 2009 Gubernatorial Public Financing Program Update

P2009 - Steven Lonagan -Submissions 16 through 20

Special Programs Director Davis reported that on July 7, 2009, staff received Submission 16 that contained \$26,199.82 in contributions submitted for match. She said that staff completed its review and issued public funds totaling \$46,422.72. Director Davis stated that on July 21st staff received Submission 17 that contained \$37,394 in contributions submitted for match. She said that staff has completed its review and issued public matching funds totaling \$58,186. Director Davis stated that on August 4th, staff received Submission 18 that contained \$71,004.14 in contributions submitted for match. She said that staff completed its review and issued public matching funds totaling \$78,843.42. Additionally, Director Davis stated that on August 18th staff received Candidate Lonagan's Submission 19 that contained \$31,831.25 in contribution eligible for match. She said that staff completed its review and issued public matching funds totaling \$48,879.20. Moreover, Director Davis stated that on September 1st staff received Candidate Lonagan's Submission 20 that contained \$28,217.96 in contributions submitted for match. She noted that staff completed its review and issued public matching funds totaling \$44,137.72. She noted that Candidate Lonagan may file 2009 primary submissions until November 4, 2009.

G2009 - Chris Christie Submissions 1, 2 and 3

Director Davis stated that Candidate Chris Christie filed his first submission for 2009 general election matching funds on July 21, 2009 containing \$1,208,981.78 in contributions (an amount in excess of the \$340,000 required threshold). She said that Candidate Christie and Lieutenant Gubernatorial Candidate Kim Guadagno filed a signed Statement of Agreement to participate in the 2009 general election debates and a Candidate Certification of Non-Participation in Issue Advocacy Organizations (Form P-2A). Also, she said that the expenditure information provided by the Christie campaign indicated that expenditures had been made or committed to be made in excess of the \$340,000 expenditure qualification threshold. She said that staff completed its review and issued \$1,965,011.56 in public matching funds. Director Davis said that on August 4th staff received

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Submission 2 from Candidate Christie totaling \$241,963 in contributions for match. She stated that staff completed its review and issued \$424,756 in public matching funds. Director Davis said that on August 18th staff received Submission 3 from Candidate Christie totaling \$254,055 in contributions submitted for match. She said that staff completed its review and issued \$472,666 in public matching funds. The Director stated that on September 1st staff received Candidate Christie's Submission 4 totaling \$483,516 in contributions submitted for match. Staff completed its review and issued \$920,312 in public matching funds. According to Director Davis, on September 8th staff received Candidate Christie Submission 5 totaling \$290,915 in contribution for match. She reported that staff completed its review and issued \$574,950 in public matching funds.

Chris Daggett G2009-Submissions 1, through 4

Director Davis reported that staff completed its review of Candidate Chris Daggett's Submission 1 and issued \$477,094 in public matching funds. She indicated that on July 21st staff received Candidate Daggett's Submission 2 totaling \$21,899 in contributions for match. The Director said that staff completed its review and issued \$42,532 in public matching funds. Director Davis stated that on August 18th staff received candidate Daggett's Submission 3 totaling \$17,055 in contributions for match. She mentioned that staff completed its review and issued \$24,360 in public matching funds. The Director said that on September 8th staff received Candidate Daggett's Submission 4 totaling \$16,478 in contributions submitted for match. According to Director Davis, staff completed its review and issued \$30,010 in public matching funds.

The Director Davis indicated that staff will report to the Commission at its next meeting on October 20th on the status of any other submissions received and public funds disbursed.

Vice Chair Tober noted that matching funds were issued on an approximately 2 to 1 ratio, but that Candidate Lonegan's rate of matching funds issued seemed lower than that of Candidate Christie or Candidate Daggett. The Vice Chair asked Director Davis if errors in submissions contributed to lower rate of matching funds issued.

Director Davis replied that a higher error rate in submissions would lower the ratio of public matching funds issued.

Vice Chair Tober asked if submissions with rejected entries could be resubmitted.

Director Davis replied that primary election candidates could resubmit rejected entries up to last submission date, November 4, 2009. She stated that general election candidates may submit up until April, 2010.

7. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Commissioner Saunders and passed by a vote of 4-0, the Commission resolved to go into Executive Session to discuss anticipated litigation, which will become public as follows:

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- 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.

8. Adjournment

The Chair directed the meeting be closed at 1:00 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz