



*State of New Jersey*

RONALD DEFILIPPIS  
Chairman

WALTER F. TIMPONE  
Vice Chairman

AMOS C. SAUNDERS  
Commissioner

## ELECTION LAW ENFORCEMENT COMMISSION

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Legal Director

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Legal Counsel

### PUBLIC SESSION MINUTES

December 18, 2012

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, Legal Counsel Matthews, and senior staff were present. Director of Review and Investigation Shreve Marshall was also present. Assistant Report Examiner Lovinsky Joseph was present for the purpose of recording the minutes. Executive Director Brindle was absent.

The Public Session Minutes will be available online in the Commission's website at: <http://www.elec.state.nj.us>.

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

#### 1. Open Public Meetings Statement

Chairman DeFilippis 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. It was also posted on the Commission's website.

#### 2. Approval of Public Session Minutes of November 20, 2012

On a motion by Vice Chairman Timpone, seconded by Chairman DeFilippis, and passed by a vote of 2-0, the Commission approved the Public Session Minutes of November 20, 2012 as amended by Chairman DeFilippis. Commissioner Saunders did not participate in the vote.

#### 3. Executive Director's Report

Deputy Director Joseph Donohue presented the Executive Director's Report.

##### A. Budget

Deputy Director Donohue informed the Commissioners that the Commission would have a continuation budget of \$4.254 million for the next fiscal year. He reported that \$10

million had been allocated for the Gubernatorial Public Financing Program, with \$480,000 for administrative costs and \$600,000 for ballot statements.

B. Training Sessions

The Deputy Director reported that the Commission would hold lobbying seminars on January 4, January 8, January 14, January 24, January 30, and February 4, 2013, all at 10AM.

He further reported that the Commission would hold pay-to-play seminars on January 25, February 22, and March 15, 2013.

C. School Board Funding Analysis

Deputy Director Donohue informed the Commissioners of the significant change produced by a new law which allows school boards to forego referenda on budgets if they fall within a two percent annual cap. He reported that school board candidates raised \$1.5 million and spent \$600,000, the lowest amount since 2001.

The Deputy Director noted that 86 percent of school boards have moved their elections to November following the passage of legislation allowing school board voting during the general election. He further noted that because of the low number of budget referenda, the New Jersey Education Association spent only \$24,606 this year compared with \$767,712 in 2011.

Vice Chairman Timpone asked if voter turnout for school board elections was higher this year.

The Deputy Director replied that he was not sure.

Chairman DeFilippis noted from his examination of election results that many voters who cast votes for President, Congress, and local races ignored the school board election further down the ballot.

D. Mandatory Electronic Filing for Lobbyists

Deputy Director Donohue stated that mandatory electronic filing for lobbyists will begin in February. He added that the system had been tested last year, and anticipated that it would perform well.

E. Federal Cases

The Deputy Director informed the Commissioners of the dismissal of two lawsuits by the U.S. District Court for the District of Columbia, McCutcheon v. FEC and James v. FEC. He reported that these cases involved similar challenges to the \$117,000 aggregate contribution limit per two years imposed on individuals at the federal level.

Deputy Director Donohue stated that the cases are now pending before the U.S. Supreme Court, and will likely be decided next year. He added that there was a possibility that the court could overturn campaign limits, but noted that they had been upheld in the Citizens United decision.

F. Jason Cabrera, Intern

The Deputy Director informed the Commissioners that Jason Cabrera, a third year legal student and Eagleton Fellow, would be working as an intern at the Commission in the spring semester.

G. Winter Meeting Schedule

- January 15, 2013 at 11:00 a.m. in Trenton;
- February 19, 2013 at 11:00 a.m. in Trenton; and,
- March 19, 2013 at 11:00 a.m. in Trenton.

4. 2013 Gubernatorial Public Financing Program Preparation

Amy F. Davis, Director of Special Programs, reviewed steps that have been taken by staff to prepare for the 2013 Public Financing Program. Director Davis also outlined procedures for certification by staff of public matching funds to participating candidates. In her presentation, she requested that the Commission specifically authorize staff to certify public fund amounts to the Department of the Treasury for payment upon completion of the staff's review of a submission.

Chairman DeFilippis inquired about the provision for an additional July meeting for the purpose of selecting debate sponsors.

Director Davis replied that the additional meeting was not required, and the decision on whether or not to hold it was dependent on the Commissioners' comfort level.

Director Davis stated that the Commissioners could select debate sponsors at the July 16 meeting in advance of the deadline.

The Chairman expressed his approval of that alternative.

Legal Director Hoekje noted that the Commission's additional workload could be shifted to other meetings if necessary.

Chairman DeFilippis asked the other Commissioners if they approved of using the meeting of July 16, 2013 to select debate sponsors.

Vice Chairman Timpone and Commissioner Saunders expressed their approval.

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders, and passed by a vote of 3-0, the Commission approved the 2013 Gubernatorial Public Financing Program preparation as amended by Chairman DeFilippis, and authorized staff to certify public fund amounts to the Department of the Treasury for payment upon completion of the staff's review of a submission.

5. Public Comments

Chairman DeFilippis asked if any members of the public wished to comment. Seeing none, he requested a motion to enter into Executive Session.

6. Resolution to go into Executive Session

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and current litigation, which will become public as follows:

- A. Final Decision Recommendations in complaint 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. The reports 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.
- C. Matters under current litigation, the substance of discussions of which will not become public in order to protect the attorney-client privilege and the deliberative process. However, any litigation in which the Commission is currently a party is a public matter and will become public subject to the above limitations and privileges.

Return to Public Session

7. Adjournment

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to adjourn at 12:50 p.m.

Respectfully submitted as true  
and correct,

Joseph W. Donohue  
Deputy Director