

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

FEBRUARY 28, 1985

PRESENT:

Andrew C. Axtell, Chairman  
Alexander P. Waugh, Jr., Vice Chairman  
Haydn Proctor, Member  
Owen V. McNany, Member  
Frederick M. Herrmann, Executive Director  
Jeffrey M. Brindle, Deputy Director  
Edward J. Farrell, General Counsel  
Gregory E. Nagy, Staff Counsel  
Peter D. Nichols, Director of Public Financing \*

\* Attended the public session only

Chairman Axtell called the meeting to order and announced that pursuant to the "Open Public Meetings Act," P.L. 1975, c.231, special notice of the meeting of the Commission has been filed with the Secretary of State's office and distributed to the entire State House press corps.

The meeting convened at 10:05 a.m. at the Maplewood Municipal Building, 574 Valley Street, Maplewood, New Jersey.

1. Approval of Public Session Minutes of February 11, 1985

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission approved the public session minutes of February 11, 1985.

2. Application on Behalf of Gubernatorial Candidacy of Robert Del Tufo

Commission members were provided with a memorandum from Peter Nichols, Director of Public Financing, in reference to an illegibility problem with the first application for public matching funds made by the Del Tufo for Governor campaign. The memorandum outlined alternatives pertaining to the processing of the submission. The Del Tufo campaign committee had been contacted prior to the meeting and two representatives were present.

William Heller, Legal Counsel to the Del Tufo campaign, urged the Commission to permit the campaign committee to submit legible copies of certain contribution documentation for immediate review. Mr. Heller admitted that the campaign committee should have provided legible support documentation to the Commission when it made its initial submission on Monday, February 25, 1985. Mr. Heller explained that when Mr. Del Tufo was first considering the idea of a candidacy, the committee neglected to make copies of contribution cards, checks, and other written instruments. Mr. Heller stated that in order for the campaign to provide documentation of the initial receipts the campaign relied on microfilm copies of its early deposits, and the campaign copied the microfilm copies. Mr. Heller requested that the campaign committee be allowed now to provide the Commission with the legible original microfilm copies that were obtained from the bank rather than risk rejection by the Commission of the entire February 25th

submission. He contended the campaign was not making an amendment but merely submitting legible support documents. In addition, Mr. Heller stated that the campaign would submit a verification statement for checks that lacked printed mailing addresses as requested by the Commission's staff.

Commissioner McNany stated that he felt the Commission should be receptive to corrections on the first submission for any gubernatorial candidate making application for public matching funds.

Commissioner Proctor moved that the Commission permit the Del Tufo campaign to submit the legible support documentation for public matching funds as part of its February 25, 1985 submission. On a second by Vice Chairman Waugh, and a vote of 4-0, the Commission adopted the motion.

### 3. Executive Director's Report

Executive Director Herrmann reported that Senate Bill No. 2244 was amended and reported out of the Assembly State Government, Civil Service, Elections, Pensions and Veterans Affairs Committee on February 14, 1985. Mr. Herrmann said he testified before the Assembly Committee in favor of the bill which will move back by 15 days various election deadlines. Specifically, Mr. Herrmann said the bill was amended to require that nominating petitions in primary elections be filed 15 days earlier. If this bill is enacted into law, the Commission will receive the names of candidates in primary elections at an earlier date and therefore should be able to provide in a more timely manner notice to candidates of the requirement to file a report 29 days before the election.

Mr. Herrmann reported that the Governor's office and the Legislature were still attempting to work on a compromise on Senate Bill No. 2598, Senator Orechio's bill to amend the public financing statutes. Mr. Herrmann said he anticipates that if any compromise is reached the legislation will affect only the general election.

Mr. Herrmann said that he was scheduled for an appearance on behalf of the Commission before the Joint Appropriations Committee on April 17, 1985 at 9:45 a.m. He said that he has contacted Sam Crane of the Senate Majority staff, Fred Butler of the Assembly Majority staff, and Art Maurice of the Assembly minority staff. Mr. Maurice has asked for a meeting with Mr. Herrmann on March 1 to discuss the FY 86 budget request of the Commission. In a related budget matter, Mr. Herrmann said that he spoke with Michael Ferrara, Manager of Budget Operations in the Office of Management and Budget, regarding the amount of money that will be available for public financing of the 1985 gubernatorial primary election. Mr. Herrmann said that he was advised that \$4 million will be available and if additional moneys should be needed prior to the expiration of the FY 1985 budget that unexpended funds of other State agencies will be applied for that purpose. Mr. Herrmann stated that no advance would be possible from the FY 1986 budget because it will not become law until July 1, 1985.

Mr. Herrmann reported that the Department of Civil Service has posted an examination date for the Report Examiner position. He said there are currently five employees that are serving in this title, and he would explore with the

Department what action can be taken to insure that a substantial personnel problem is not created.

4. Future Meeting Dates

Chairman Axtell stated that General Counsel Farrell had agreed to permit the Commission to use his offices in Morristown for the next Commission meeting on March 11, 1985. The meeting will begin at 1:30 in the afternoon. The following meeting of the Commission will be conducted on March 26, 1985 at the Commission's offices in Trenton at 10:00 a.m.

5. Bank Loans and Publicly Financed Elections

The Commission reviewed a two-page memorandum by Peter D. Nichols, Director of Public Financing, dated February 27, 1985. Mr. Nichols stated that in the 1981 gubernatorial elections the Commission had permitted gubernatorial campaigns to borrow up to \$50,000 as "bridge loans" until their submissions for public funds were approved and the payments made. He asked the Commission to verify that N.J.S.A. 19:44A-44 permits such a policy, and recommended that the practice of "bridge loans" be permitted in the 1985 gubernatorial elections. He stated that he had received an inquiry from the campaign of Robert Del Tufo asking whether this policy would be continued.

General Counsel Farrell stated that N.J.S.A. 19:44A-44 should be construed to permit a candidate, or his campaign fund, to borrow up to \$50,000, and permit the public fund application to be used as collateral. He stated that such a loan must be repaid at least 20 days prior to the election, and therefore there was little likelihood that a candidate would default. Mr. Farrell also stated that a candidate could lend his campaign up to \$25,000 of his or her personal funds in addition to the \$50,000 "bridge loan" borrowed from a national or State bank.

6. Contributions from Partnerships in Gubernatorial Elections

Mr. Nichols recommended that the text of Commission Regulation N.J.A.C. 19:25-16.13(c) should be amended. The difficulty is that the physical size of standard checks do not provide enough room for several signatures. Therefore, the requirement that each partner or member of a partnership sign a check instrument if that contribution is to be allocated among the signing members or partners should be amended. Mr. Farrell suggested that an additional sentence be added to the regulation to the effect that the requirement will be deemed satisfied if the necessary signatures appear on a supporting document.

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission enacted a resolution that Mr. Farrell draft such a regulation and that it be submitted to the Office of Administrative Law as a proposal.

7. Executive Session

On a motion by Commissioner Proctor, seconded by Vice Chairman Waugh and a vote of 4-0, the Commission decided to go into executive session to discuss

enforcement and investigative matters, the result of which will be made public at their conclusion.

8. Adjournment

On a motion by Commissioner McNany, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "F. M. Herrmann", with a long horizontal flourish extending to the right.

FREDERICK M. HERRMANN