



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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COMMISSIONER

PUBLIC SESSION MINUTES

MAPLEWOOD MUNICIPAL BUILDING

JUNE 16, 1989

All of the Commissioners and senior staff were present.

Chairman Bedford called the meeting to order and announced that pursuant to the "Open Public Meetings Act," N.J.S.A. 10:4-8 et seq., special 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 10:05 a.m. at the Maplewood Municipal Building, Maplewood, New Jersey.

1. Approval of Public Session Minutes of May 10, 1989

On a motion by Commissioner Axtell, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission approved the Public Session Minutes of May 10, 1989.

2. Approval of Public Session Minutes of May 16, 1989

On a motion by Vice Chairman McNany, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission approved the Public Session Minutes of May 16, 1989 as technically amended. The Commission corrected the first line of the minutes to read "All of the Commissioners and senior staff were present." The line had read "All of the Commission and senior staff were present."

3. Approval of Public Session Minutes of May 23, 1989

On a motion by Commissioner Linett, seconded by Vice Chairman McNany and passed by a vote of 4-0, the Commission approved the Public Session Minutes of May 23, 1989.

4. Approval of Public Session Minutes of May 31, 1989

On a motion by Commissioner Linett, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission approved the Public Session Minutes of May 31, 1989 as technically amended. The Commission corrected the first line of the minutes to read "All of the Commissioners and senior staff were present." The line had read "All of the Commission and senior staff were present."

5. Approval of Public Session Minutes of June 1, 1989

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission approved the Public Session Minutes of June 1, 1989 as technically amended. The Commission corrected the first line of the minutes to read "All of the Commissioners and senior staff were present." The line had read "All of the Commission and senior staff were present."

6. Executive Directors' Report

A. Staff News

Executive Director Herrmann noted that letters of commendation received from the public regarding Debbie Kostival, Irene Comiso and Ginny Wilkes have been placed in the Commissioners' folders. The Executive Director said that he was very proud of the commendation letters.

Executive Director Herrmann announced that the Commission had acquired the services of two summer interns: Steve Kimmelman, who holds a Masters degree in Political Science from Rutgers University, and Catherine Mulrow, a first year law student. He said that, unfortunately, Ms. Mulrow was offered a job working for a federal judge and had to discontinue her internship only two days after starting it. Executive Director Herrmann said that Mr. Kimmelman will be researching White Paper Number 4, the topic of which is alternate funding sources for the Election Law Enforcement Commission (ELEC). He said that in view of ELEC's current budgetary problems, this is a very important subject.

Executive Director Herrmann reported that Director of Compliance and Information Evelyn Ford and Director of Public Financing Nedda Massar did excellent jobs on their respective statistical preelection press releases. He noted that Evelyn Ford introduced statistical tear-off sheets that proved to be very popular with the legislative candidates. He said that the candidates provided the Commission with the information on the statistical tear-off sheets and that the staff used this data as the basis of its legislative statistical press release.

Executive Director Herrmann reported that the New York Times, in a primary day editorial, praised the gubernatorial public financing program and termed it "a victory for New Jersey".

The Executive Director also reported that the Commission is getting numerous requests for copies of the Investigative Manual recently prepared by Elizabeth Ryan, Director of Review and Investigation.

Finally, Executive Director Herrmann reported that the Commission has formed a softball team. He said that the team is off to a slow start at 0-

B. Staff Activities

Executive Director Herrmann said that he will be attending his final COGEL Steering Committee meeting next week. He said that the meeting, to be held in New Orleans, is for the purpose of planning the annual conference in December.

The Executive Director reported that in late July, he will attend the Council of State Government's Eastern Regional Conference. He said that he was especially interested in sessions on campaign fundraising and State budgetary issues.

Executive Director Herrmann said that he has been tentatively invited to be a speaker at the COGEL Conference on Campaign Financing in Washington, D.C. to be held in late September. The National Association of Secretaries of State (NASS) is co-sponsoring the event.

C. Summer Meeting Schedule

Executive Director Herrmann noted that the Commission's summer meeting schedule is as follows: July 18, 1989, 9:30 a.m., Trenton; and August 15, 1989, 9:30 a.m., Trenton. He announced that the ELEC picnic is at Chez Nagy on August 18, 1989.

Executive Director Herrmann reported that Commissioner Axtell has rescinded his resignation until a replacement is named and seated on the Commission.

D. White Paper Number Three

Executive Director Herrmann said that White Paper Number Three deals with legislative public financing. He said that the paper concludes that public financing of legislative elections is a good idea.

Executive Director Herrmann said that the paper suggests that legislative public financing would increase the public's trust in the electoral process, enable candidates of limited means to compete for legislative office, reduce undue influence of special interests, and allow candidates to spend more time campaigning as opposed to fundraising. The

Executive Director said that current ELEC statistics show that incumbents totally dominate fundraising.

Executive Director Herrmann said that an obvious concern relative to public financing has to be one of money to support the program but that this concern should be for the Legislature to deal with, not the Commission. He said that the Commission should consider the concept on its merits, not on how much it may cost.

Executive Director Herrmann indicated that support for legislative public financing in New Jersey is broad-based. He said that many major newspapers and prominent political scientists support it, as well as Governor Kean and a number of legislative leaders. Executive Director Herrmann said that New Jersey Common Cause and other good government groups also support the concept.

Chairman Bedford asked if the paper addresses the question of limiting PACs.

Executive Director Herrmann said that a public financing program, because it would contain contribution limits, would have the effect of limiting the influence of PACs. He said that such a program would also have the effect of providing challengers with money to mount competitive races.

The Commission decided to postpone release of the public financing white paper and carry-over the discussion of it until the July 18, 1989 meeting.

On a motion by Commissioner Linett, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission did, however, endorse the concept of legislative public financing.

7. Coordinated Expenditures Regulations

On a motion by Commissioner Linett, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission adopted N.J.A.C. 19:25-15.29 and 16.30, Coordinated Expenditures, as published in the New Jersey Register at 21 N.J.R. 1286(a) (May 15, 1989), and directed staff to file an adoption notice with the Office of Administrative Law (OAL) in the Department of State.

8. Proposed Revision of Coordinated Expenditures Regulation

In a letter dated May 24, 1989, the Jim Florio Campaign suggested revisions to the coordinated expenditures regulation for gubernatorial general elections that would exempt certain direct mail and telephone bank activity that is voluntary in nature and insubstantial from restrictions under the public financing law. In a memorandum dated June 9, 1989 from

Gregory E. Nagy, Legal Director, to Frederick M. Herrmann, Ph.D., Executive Director, entitled Proposed Revision of Coordinated Expenditures Regulation, the Florio Campaign revisions were drafted as new proposed amendments. Also, in a letter dated June 12, 1989, the Jim Courter Campaign submitted a separate proposal concerning use of the gubernatorial candidate's name in "volunteer" activity materials. The draft amendments were as follows:

In subsection(a), which establishes the general rule for defining a coordinated expenditure, no substantive change was proposed.

In subsection(b), "volunteer" activity is removed from the scope of coordinated expenditure rules. The only proposed change of substance would be the deletion of "direct mail" from paragraph 3.

Under the new proposed subsection(c), direct mail activity would be exempted from the coordinated expenditure rule under limited circumstances. While direct mail cannot principally promote the gubernatorial candidate, non-gubernatorial candidates would be permitted to coordinate the use of a gubernatorial candidate's name in their direct mail materials and identify themselves with that gubernatorial candidate.

A new proposed subsection(d) would remove coordinated telephone bank activity from the rule provided that it is limited to get-out-the-vote efforts of the non-gubernatorial candidates conducted within seven days of the election.

Because of new subsections(c) and (d), the existing subsections(c), (d), and (e) would be relettered (e), (f), and (g), respectively.

Chairman Bedford said that with respect to subsection(c), paragraph 3, he is concerned with the words "principal thrust". He questioned whether there should be any "thrust" at all [with respect to the gubernatorial candidate] in the text of campaign literature distributed by non-gubernatorial candidates. Chairman Bedford said that there should not be anything in the text of direct mail sent by local candidates that deals with gubernatorial candidates and is coordinated.

Legal Director Nagy said that the proposed amendments contain proposals made by the Florio campaign. He said that the use of the words "principal thrust" is included in subsection(c), paragraph 3, to insure that the direct mail piece does not become a vehicle for gubernatorial candidates to circumvent the contribution and expenditure limits.

Chairman Bedford asked why direct mail is eliminated from subsection(b) paragraph 3. The Chairman said that it is important to remember that all such efforts must be voluntary in nature in order to not be allocable against the gubernatorial expenditure limit. He said that delivery by the postman is not voluntary.

Legal Director Nagy said that the elimination of direct mail reference in subsection(b), paragraph 3, is the Florio Campaign's proposal. The Florio Campaign considers direct mail to be insubstantial provided that the activity meets the three criteria contained in the new subsection(c). Legal Director Nagy indicated that the inclusion of the direct mail prohibition in subsection(b) paragraph 3 would result in that subsection being in conflict with proposed subsection(c).

Chairman Bedford, referring back to his initial comments about the words "principal thrust" asked: "How would the Commission measure principal thrust?"

Commissioner Linett said that he believed that the "principal thrust" of a direct mail piece could be measured quite easily. The Commissioner gave the example of an Assembly candidate who distributes a piece of literature. Commissioner Linett said that in a situation like this the "principal thrust" would be on behalf of the Assembly candidate.

Executive Director Herrmann suggested that substituting the phrase "predominant theme" for "principal thrust" might better clarify the concept. He said that the "predominant theme" phrase was utilized by Senator Richard Zimmer in a gubernatorial public financing reform bill.

Chairman Bedford said that he would like to see subsection(c), paragraph 3 stricken from the text. He said that it is unnecessary.

The Chairman recognized Mr. Scott Weiner, Treasurer of the Florio for Governor campaign. Mr. Weiner agreed with the Chairman, stating that subsection(c) paragraph 1 obviates the need for paragraph 3.

Commissioner Linett said that paragraph 3 is superfluous.

On a motion by Commissioner Linett, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission deleted subsection(c) paragraph 3 from the text.

Commissioner Linett, referring to written commentary by Peter Verniero, Esq., Deputy Campaign Director of the Jim Courter for Governor Committee, said that the issue of using a photograph of the gubernatorial candidate, as highlighted by the Courter comments, is not addressed in the text.

Mr. Verniero, by way of clarification, asked if the proposal for direct mail permits a mention of the gubernatorial candidate's name in the text and again within a listing of the gubernatorial and non-gubernatorial candidates.

Chairman Bedford responded in the affirmative to Mr. Verniero that such uses would be permitted. Chairman Bedford said that the Commission was

attempting to strike a balance between allowing insubstantial volunteer activity and protecting the expenditure and contribution limits.

Chairman Bedford asked if it was the pleasure of the Commission to permit a photograph of the gubernatorial candidate together with other local candidates to be included in the campaign literature.

Vice Chairman McNany said he does not see any reason why the Commission could not permit the use of a group photograph.

Commissioner Axtell said that it is axiomatic that local candidates will want their picture taken with their party's gubernatorial candidate.

Chairman Bedford said that he is inclined to permit one picture of the gubernatorial candidate to be included in the direct mail piece.

Vice Chairman McNany agreed.

Commissioner Linett suggested that subsection(c) paragraph 3 be reinserted to modify subsection(c) paragraph 1 with respect to photographs. He said that the phrase "predominant theme" should be substituted for "principal use."

Chairman Bedford said that he could see nothing wrong with permitting a single use of a group photograph of the gubernatorial candidate with local candidates.

Chairman Bedford recognized Mr. Angelo Genova, Campaign Counsel of the Florio for Governor Committee.

Mr. Genova said that he believed that subsection(c) paragraph 2 gives the Commission the control it needs to prevent gubernatorial candidates from dominating the campaign literature subject to direct mail. He said that paragraph 3 was not necessary.

Counsel Farrell said that if the Commissioners were to look to paragraph 2 as the controlling provision of the proposed regulation, then this paragraph must include a reference to the single photograph limitation.

Counsel Farrell said that the Commission's concern has to be the integrity of the expenditure limits of the public financing program. He said that if there are no restrictions contained in the proposed regulations, then a gubernatorial candidate could conceivably arrange with local candidates for the literature to be prepared and distributed in circumvention of the expenditure limit.

Legal Director Nagy said that the regulation should state explicitly that the direct mail piece can contain one reference to the Courter or Florio team, one reference to the gubernatorial candidate in the text, and

one photograph of the gubernatorial candidate, if that is the opinion of the Commission.

Commissioner Linett indicated that he was opposed to the language in subsection(c) paragraph 2 which stipulated that the size of the print used to reproduce the name of the gubernatorial candidate be the same or smaller than the size of the print used in the text. He said that this provision did not make any sense. He recommended that the phrase "and the print used for the text of the mailing, and," be deleted from subsection(c) paragraph 2. The Commission concurred in this recommendation.

With respect to subsection(c), the Commission directed staff to redraft the proposal to include the requirement that the direct mail piece contain only one reference to the name of the gubernatorial candidate in the gubernatorial team, one reference to the name of the gubernatorial candidate in the text, and one photograph of the gubernatorial candidate. In addition, the phrase "and the print used for the text of the mailing, and" is to be stricken from the text as is subsection(c) paragraph 2.

Chairman Bedford, referring to subsection(d), asked how the Commission would be able to monitor telephone conversations and determine if a get-out-the-vote effort would be in violation of the Commission's regulations.

Mr. Weiner stated that in past years the Commission was able to do this through responding to complaints and requesting a copy of the telephone script from individuals in charge of the operation.

Vice Chairman McNany indicated that he believed that the monitoring of get-out-the-vote effort was possible.

At this juncture, Mr. Weiner asked if the Commission could clarify the issue of allowing political committees, other than principal campaign committees, to undertake direct mail and get-out-the-vote activities that mention the gubernatorial candidates name and are insubstantial. Mr. Weiner said that in subsection(b), for instance, the use of the phrase "non-gubernatorial candidates," could be interpreted to mean not only other candidates but other committees as well. Mr. Weiner suggested that by using this interpretation the Commission would be allowing not only political committees but also the State Party Committees as well to undertake this activity. He said that he favored allowing political committees that were independent of the gubernatorial candidate to undertake the prescribed direct mail and get-out-the-vote effort, but not party entities, such as the State Committees.

Mr. Genova asked the Commission if it intended to allow the State Party Committees to undertake this activity.

Mr. Weiner said that expenditures by a committee, other than the principal campaign committee of a gubernatorial campaign, which spends money on behalf of the gubernatorial candidate, should be permissible.

Mr. Genova said that a committee established to support candidates other than the gubernatorial candidate, which nevertheless distributes literature that mentions the gubernatorial candidate, should not have any portion of its expenditures allocated against the expenditure limit of the gubernatorial candidate.

Commissioner Linett agreed. He said that the Commission should not stand in the way of local committees, for instance, linking candidates they support with their party's standard-bearer. He said that the proposed regulation does not address this issue. He agreed that the State parties should be limited.

Legal Director Nagy expressed concern that a committee could be set up under the guise of supporting non-gubernatorial candidates, when in reality, it is being established to support the gubernatorial candidate. He asked whether there was any possibility for such a committee to raise and spend a substantial amount and thereby circumvent the contribution and expenditure limits.

Mr. Genova said that because the regulations address volunteerism, and provide strict guidelines, this activity would be preventable.

Mr. Verniero said that he agreed that the Commission should not limit the legitimate use of the gubernatorial candidates' name by other candidates. He said, however, that the Commission should have clear guidelines that would preclude political committees or PAC's from circumventing the limits in the public financing law.

Counsel Farrell said that he was uneasy about State and local committees being excepted from the allocation rule.

Commissioner Linett said that he was sympathetic to the idea of allowing political committees established to support non-gubernatorial candidates to refer by name and photograph to its party's gubernatorial candidate. He said that this issue should be specifically addressed in the proposed regulation and suggested that subsection(a) be amended to read: "A communication expenditure by a candidate other than a gubernatorial candidate, or by a political committee supporting a candidate other than a gubernatorial candidate, is a contribution by such candidate subject to the contribution limit in N.J.S.A. 19:44A-29 and is a coordinated expenditure of the gubernatorial candidate properly allowable against the expenditure limit of the gubernatorial candidate in N.J.S.A. 19:44A-7 if...." Commissioner Linett said that other parts of the proposed regulation should be amended to reflect this language.

Chairman Bedford said that he was reluctant to enact this exception.

Mr. Verniero said that he was concerned about the proposed change to 19:25-15.29(a). He said that he was troubled by the inclusion of the political committee language. Mr. Verniero said that he believed the

Commission was opening up a big loophole and perhaps paving the way for abuse. He said that the political committee language is too broad.

Chairman Bedford suggested that staff redraft the proposed regulatory revision along the lines recommended by the Commission during the course of the discussion. He suggested that the Commission schedule a telephone meeting for July 6, 1989 to consider the redrafted proposal. Chairman Bedford said that the Commission had reached a consensus on amending all parts of the proposed regulation, except on the political committee provision.

The Commission scheduled a telephone meeting for July 6, 1989 at 10:00 a.m. The members of the Commission directed staff to redraft the proposal for consideration at that time.

In summary, the changes to the proposal include: 1) inclusion of the political committee exception throughout the regulation; 2) deletion of subsection(d) paragraph 3, which contains the "principal thrust" language, from the restriction on phone banks but not from the restrictions on direct mail; 3) inclusion of language stipulating that within direct mail literature there shall be only one reference to the name of the gubernatorial candidate in the gubernatorial team, one reference to the gubernatorial candidate's name in the text, and one gubernatorial photograph (subsection(c) paragraph 1); 4) deletion of the phrase "and the print used for the text of the mailing" in subsection(c) paragraph 2; and, 5) the addition of the phrase "paid for by a non-gubernatorial candidate or political committee" after the word "voter" in subsection(d).

The Commission invited the campaign representatives and public to submit commentary and proposals for change by June 21, 1989, and asked staff to prepare the draft by June 30, 1989, and to circulate the draft and campaign proposals to the Courter and Florio campaigns.

9. Certification of Public Funds Submitted on May 30, 1989

1. Candidate Gerald Cardinale

At its meeting on May 31, 1989, the Commission certified 95 percent of the amounts submitted by the Cardinale Campaign on May 30, 1989 as eligible for match. The amount in public funds approved was \$109,649.48.

Subsequently, a complete review was completed by staff and it was determined that \$57,370.25 (including resubmissions) was eligible for match at a 2:1 ratio. Thus, Candidate Cardinale was eligible for \$114,740.50 in public funds. When subtracting the \$109,648.48 in public funds certified at the May 31, 1989 meeting from this amount, a balance of \$5,091.02 was recommended for certification to Candidate Cardinale.

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission certified \$5,091.02 in matching funds to Candidate Cardinale.

2. Candidate Alan Karcher

At its meeting on May 31, 1989, the Commission certified 95 percent of the amounts submitted by the Karcher Campaign on May 30, 1989 as eligible for match. The amount in public funds approved was \$44,678.88.

Subsequently, a complete review was completed by staff and it was determined that \$22,372.60 (including resubmissions) was eligible for match at a 2:1 ratio. Thus, Candidate Karcher was eligible for \$44,745.20 in matching funds. When subtracting the \$44,678.88 certified in public funds at the May 31, 1989 meeting from this amount, a balance of \$66.32 was recommended for certification to Candidate Karcher.

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission certified \$66.32 in matching funds to Candidate Karcher.

3. Candidate William Gormley

At its meeting on May 31, 1989, the Commission certified \$8,740 in public funds to Candidate Gormley.

Subsequently, a complete review was completed by staff and it was determined that the \$8,740 in public funds certification was appropriate. The \$8,740 approved for Candidate Gormley's campaign on May 31, 1989 represented the amount necessary to reach the \$1.35 million maximum in 1989 primary election public matching funds.

4. Candidate Barbara Sigmund

At its meeting on May 31, 1989, the Commission certified 95 percent of the amounts submitted by the Sigmund Campaign on May 31, 1989 as eligible for match. The amount in public funds approved was \$83,481.94.

Subsequently, a complete review was completed by staff and it was determined that \$41,427.86 was eligible for match at a 2:1 ratio. Thus, Candidate Sigmund was eligible for \$82,855.72 in public funds. When subtracting the \$83,481.94 certified in public funds at the May 31, 1989 meeting from this amount, a negative balance of -\$626.22 was realized. Thus, staff recommended no public funds certification to Candidate Sigmund. Staff indicated that the \$626.22 overcertification will be adjusted on the June 5, 1989 submission.

On a motion by Vice Chairman McNany, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission approved the staff recommendation.

10. Certification of Public Funds Submitted on June 5, 1989

Director of Public Financing Nedda Massar noted that Candidate Sigmund's submission was submitted nine minutes late at 12:09 p.m.

On a motion by Vice Chairman McNany, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission accepted the Sigmund submission as eligible to receive public funds.

On May 22, 1989, the following net amounts (excluding resubmissions) were submitted for match: Candidate Cardinale, \$9,975, and Candidate Sigmund, \$14,242.

As the result of a complete review, the following amounts (including resubmissions) were deemed eligible for match at a 2:1 ratio: Candidate Cardinale, \$13,111, and Candidate Sigmund, \$14,217.

Thus the staff recommended that the following amounts be certified at the 2:1 match in public funds: Candidate Cardinale, \$26,222, and Candidate Sigmund, \$27,807.78.

The \$27,807.78 amount recommended to be certified in public funds for Candidate Sigmund includes a reduction by \$626.22 to account for the overcertification of public funds to Candidate Sigmund on May 31, 1989.

On a motion by Commissioner Linett, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission certified \$26,222.50 in public funds to Candidate Cardinale.

On a motion by Commissioner Axtell, seconded by Commissioner Linett and passed by a vote of 4-0, the Commission certified \$27,807.78 in public funds to Candidate Sigmund.

11. Personal Use Regulations

Legal Director Nagy said that the Commission had asked staff to consider possible regulation over candidate use of campaign funds to pay themselves salaries or other compensation; see Advisory Opinion 09-1989 and Advisory Opinion 11-1989.

Legal Director Nagy recommended that with respect to candidate committees compensating candidates or treasurers, the Commission regulate this area by requiring enhanced disclosure. He said that the current campaign law did not give the Commission any express authority to prohibit expenditures of campaign funds for salaries. Legal Director Nagy indicated that while there is no express statutory authority to prohibit candidates from employing themselves, their relatives or others, the Commission at least may have inferential authority to require disclosure of the

relationship of the recipient-payer to a candidate or treasurer, the services provided, and the rate of compensation.

Commissioner Linett said that the Commission was getting into a difficult area with respect to statutory authority. He said that the Commission should propose that the Legislature change the law instead of creating a situation wherein the Commission's statutory authority could be challenged.

Vice Chairman McNany said that the Commission should take both courses of action. He said that the Commission has been prodding the Legislature on this issue for years. Vice Chairman McNany said that despite the Commission's efforts, however, the Legislature has taken no action.

Chairman Bedford directed Legal Director Nagy to draft a regulation that would enhance disclosure of campaign money being spent on compensation for candidates, treasurers, or family members.

12. Advisory Opinion No. 15-1989

This advisory opinion request was submitted by Joseph J. Bell, Esq., on behalf of Charles C. Lombardo, Mayor of Rockaway Township, Morris County.

This request involves the question of whether or not continuing political committee funds can be used to purchase an automobile telephone for political purposes.

The advisory opinion as drafted by Legal Director Nagy states that funds expended by a continuing political committee cannot be converted to any personal use by a candidate or any other person. It states that telephone charges related to personal phone calls cannot be paid for by the continuing political committee. The advisory opinion further states that when the Mayor leaves office the phone cannot be retained by the Mayor for personal use unless he compensates the "Coalition" for its fair market value.

Commissioner Linett said that he would rather respond that the phone is to be used for political purposes only. He said that if it is going to be used for any other purpose then the Commission should disallow it.

Chairman Bedford agreed, stating that if the phone is used for township business, for instance, then the township should pay for it and not contributors.

Legal Director Nagy noted that the request from Mr. Bell states the phone will be used "for political purposes" but does not specifically set forth what activity the inquirer considers as political.

Chairman Bedford said that the consensus of the Commission seems to be that the car phone cannot be paid for with PAC funds unless it is to be used only for political purposes, and more information is needed on exactly what political purposes are being considered.

Commissioner Axtell concurred.

Executive Director Herrmann said that the advisory opinion as written is consistent with past advisory opinions. He said that this issue, which is related to the legislative district office use issue, constitutes a very gray area in the law.

The Executive Director said that the Commission has always maintained that it had no authority to regulate the legislative district office issue.

Executive Director Herrmann said that since this is a related issue, the draft opinion is stating the same position.

Chairman Bedford said that he does not think that this expenditure should be allowed.

Counsel Farrell said that he is very concerned about the misuse of continuing political committee funds. He said that it would be appropriate to use these funds to purchase a car phone only if it could be documented that it was only to be used for political purposes.

Chairman Bedford directed staff to obtain more information on what political purposes are specifically contemplated as well as obtain an extension for responding to this request. He directed staff to draft another response when more information is provided.

13. Executive Session

On a motion by Vice Chairman McNany, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission voted to go into Executive Session to discuss investigative and enforcement matters, the results of which will be made public at their conclusion.

14. Adjournment

On a motion by Commissioner Linett, seconded by Commissioner Axtell and passed by a vote of 4-0, the Commission voted to adjourn at 2:30 p.m.

Respectfully submitted,



FREDERICK M. HERRMANN, PH.D.

FMH/jah