



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

April 15, 1997

Chair Martin, Vice Chair Linett, Commissioner Franzese, the Counsel, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present.

1. Open Public Meetings Statement

Chair Martin 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, New Jersey.

2. Approval of Public Session Minutes of March 25, 1997

On a motion by Commissioner Franzese, seconded by Chair Martin and passed by a vote of 2-0, the Commission approved the Public Session Minutes of March 25, 1997.

3. Executive Director's Report

Vice Chair Linett arrived at this point.

A. New Commissioner

Executive Director Herrmann reported that Lynn B. Ware of Moorestown, recently appointed as a Commissioner, will attend her first meeting in May.

B. Computers

Executive Director Herrmann stated that a new state lobbying home page on the internet has a link to ELEC's home page. He added that the new page provides a listing of all the State's lobbyists and said that its URL is <http://pegasus.rutgers.edu/~dduncan/>.

C. National Ethics News

Executive Director Herrmann noted that a new national report has been released by the Task Force on Campaign Financing. The Executive Director advised the Commission that this group is comprised of nine political scientists who are experts in the field. He said that the Chair of the group is former ELEC Consultant Dr. Herbert E. Alexander. According to Executive Director Herrmann, among the groups numerous recommendations are:

- a) that the First Amendment should not be altered;
- b) that the courts, however, should extend a First Amendment exception to allow regulation of areas that threaten the "integrity of the electoral system";
- c) that one such exception involves issue advocacy speech, which should be:
 - reportable if it names a candidate, costs over \$50K, and occurs within six months of an election.
- d) that contribution limits should not be drastically lowered so as to:
 - Deprive candidates of money to communicate a message;
 - Help incumbents and millionaires; and
 - Encourage unwelcome practices such as independent spending, bundling, and issue advocacy.
- e) that contribution limits should be indexed for inflation;
- f) that election agencies should be provided with adequate resources to computerize their disclosure operations and to vigorously enforce the law;
- g) that contributions may not be accepted unless they provide occupation/employer information;
- h) that there be no limits on party contributions to candidates;
- i) that the Federal Income Tax checkoff should be increased to \$5 and be indexed for inflation;
- j) that there be public financing of congressional elections;

- k) that there be a ban on personal PACs (at the Federal level termed leadership PACs); and,
- l) that bundling should be reported.

Executive Director Herrmann reported that President Clinton has asked congress to increase the funding to the Federal Election Commission (FEC) by about 25 percent. He stated that the President said the FEC "plainly lacks the resources it needs," noting that the agency is "overworked, underfunded, and unable to address the many issues raised in recent elections."

According to the Executive Director, the President said that "more money for the agency should be part of a bipartisan effort to restore the public trust in the way we finance elections to the congress and the presidency."

Executive Director Herrmann said that the State of Maryland is enacting a major campaign financing reform initiative. He indicated that part of its plan calls for computerization of campaign reporting, requiring an increase in the agencies operating budget of about \$1/4 million a year for this purpose.

D. Approval of Annual Report

Executive Director Herrmann thanked Deputy Director Jeffrey M. Brindle, the Directors, and Administrative Assistant Elbia Zeppetelli. Mrs. Zeppetelli has perfected desktop publishing.

On a motion by Commissioner Franzese, seconded by Vice Chair Linett and passed by a vote of 3-0, the Commission approved the publication of the 1996 Annual Report.

E. Financial Disclosure Statements

The Executive Director reminded the Commissioners that Financial Disclosure Statements are due on or before May 15 and that an original must be filed with the Executive Commission on Ethical Standards (ECES) and one copy is filed with the Chief Counsel to the Governor. He mentioned that the final pages of both copies must contain an original signature and an original notarization.

F. Spring Meeting Schedule

May 20, 1997, at 11:00 a.m. in Trenton; and
June 26, 1997, at 11:00 a.m. in Trenton.

4. Selection of 1997 Gubernatorial Primary Election Debate Sponsors

Four applications to sponsor the 1997 gubernatorial primary election debates were submitted to the Commission. The applications were received from:

- New Jersey Network, WCBS-TV (NY), KYW-TV (Philadelphia), League of Women Voters, Eagleton Institute, Times (Trenton), Record (Hackensack), Press (Asbury Park), TKR Cable Television, and TCI Cable Television;
- Star-Ledger (Newark) and News 12 New Jersey;
- League of Women Voters; and
- New Jersey State Chamber of Commerce.

The first three debate sponsor applications were received by the March 17, 1997 filing deadline. The application from the New Jersey State Chamber of Commerce was filed on March 18, 1997, one day late. Staff recommended that this application be considered by the Commission because the degree of lateness did not affect the application review process.

It was noted that the debate date of the Chamber's application is outside of the statutory deadline for holding a debate. Staff recommended that the debate framework should be observed.

The public financing statute establishes the following three criteria for sponsor eligibility:

- A sponsor must be unaffiliated with any political party or holder of or candidate for public office;
- A sponsor must not endorse any candidate in the pending primary election, and must agree not to make any such endorsement until the completion of any debate sponsored by the organization; and,
- A sponsor must have previously sponsored one or more televised debates among candidates for Statewide office since 1976, or be an association of two or more news publications or broadcasting outlets having between them a "substantial readership or audience in this State...."

Staff stated that the information provided by the four 1997 primary election debate sponsor applicants establishes that each meets the criteria set forth above.

Staff noted that the Commission is by statute encouraged to select different sponsors for each of the interactive gubernatorial debates. Therefore, while two of the applicants (Star-

Ledger Newark and the League of Women Voters) have indicated that they would be willing to sponsor more than one 1997 gubernatorial primary election debate, staff recommended that different sponsors be selected for the two Democratic candidates' debates.

For further information, see the chart which provides summary information taken from each of the four applications concerning specific plans for the debates and sources of financial support to underwrite the costs associated with the debates. Because Candidate Whitman is unopposed in the primary election, she is not required to debate. Therefore, only Democratic gubernatorial candidates will be required to debate.

A discussion ensued with regard to the selection of debate sponsors.

Vice Chair Linett asked Mr. Josh McMahon, News Editor of the Star-Ledger, whether he had commitments from T.V. stations other than News Channel 12 for covering the debate.

Mr. McMahon indicated that CTN would also provide coverage.

Vice Chair Linett asked whether any T.V. station besides cable networks would cover the debates.

Mr. McMahon answered in the negative.

Executive Director Herrmann asked each applicant to talk more about the issue of media coverage and discuss advertising plans for the debates.

Mr. William Jobes, News Director of NJN said that NJN would broadcast the entire two-hour debate program live. He indicated that WCBS-TV (NY) and KYW-TV (Philadelphia) would broadcast one hour live and the remainder in delayed fashion.

Mr. McMahon said that the Star-Ledger would be promoting the event, which would be replayed several times.

A representative of WPVI (Philadelphia), applying in conjunction with the League of Women Voters said that coverage would be provided statewide on Sunday afternoon (tape delayed) on WPVI and WABC (New York). She said that WPVI is number one in viewership in South Jersey and WABC is one or two in the New York area.

Vice Chair Linett asked the applicants to discuss corporate sponsorship. Ms. Katherine Becker of the League of Women Voters indicated that the League may be receiving some corporate underwriting from CIT.

Mr. Jobes said that NJN would be seeking corporate underwriting from the CIT group and may seek other sources.

Mr. McMahon said that the Star-Ledger would be underwriting the venture itself.

Executive Director Herrmann asked if any of the sponsors planned to make the debates available in Spanish.

Mr. Jobs indicated that NJN plans to make the debates available to Spanish speaking stations.

The representative of WPVI said that WPVI would make the debate available to show it in the Puerto Rican Panorama.

Chair Martin thanked all the sponsors for their fine applications and presentations. He said that the Commission has a very difficult task in making a decision on the debate sponsorship. He noted that the Commission must consider first the question of which application promises the widest exposure for the debates. He said that the Commission was very appreciative of the efforts put forth by all the applicants. He noted that the League of Women Voters is part of the group applying to sponsor with NJN.

Vice Chair Linett said that he agreed with Chair Martin that it is a difficult task to choose sponsors. He said that this time is the third that he has participated in this exercise and that he can appreciate how well each of the applicants has performed. He said, however, that after careful considerations he would move that the NJN Consortium and the Star-Ledger applicants be approved for debate sponsorship.

Commissioner Franzese said that she had a certain amount of hesitation when it came to the Star-Ledger's proposal. She said that she was sorry to see the loss of coverage on WPVI and WABC. She indicated that she was concerned about the absence of a major non-cable station in the Star-Ledger's proposal.

Commissioner Franzese asked: how does this motion sit with the League?

Ms. Becker said that the League would prefer being selected on its own.

Chair Martin asked if there was a second to Vice Chair Linett's motion. Commissioner Franzese seconded the motion. On a vote of 3-0, the Commission approved the motion selecting NJN Consortium and the Star-Ledger as sponsors of the two gubernatorial Democratic primary debates.

Chair Martin again expressed his appreciation to the sponsor applicants and urged them all to apply to sponsor a 1997 general election debate.

5. Report on 1997 Public Funds Distributed

Whitman Campaign Submission 1 and 2

The public financing staff has concluded its review of the first public matching fund submission filed by 1997 gubernatorial primary election candidate Christine Todd Whitman. On the basis of its review of the submission, public matching funds in the amount of \$545,770 were deposited into the separate public funds account established through the Department of the Treasury.

Candidate Whitman has filed a signed Statement of Agreement to participate in the 1997 primary election debates and has provided documentation that at least \$210,000 has been spent or irrevocably committed for the 1997 primary election.

Candidate Whitman's March 10, 1997 first application for matching funds contained \$363,560 in net contributions submitted for match. Complete review of all items submitted for match resulted in ineligibility of 21 contribution items representing \$21,675. After subtraction of the \$69,000 of contributions which is not matched, it was determined that \$272,885 was eligible to be matched at the 2:1 ratio.

Candidate Whitman's second submission for public matching funds, filed on March 24, 1997, contained \$931,800 in net contributions submitted for match. Complete review of all Submission 2 items resulted in ineligibility of 47 contribution items representing \$45,950. The ineligibility of 47 items submitted for match results in an error rate of 5.3 percent on the second submission. The resulting \$885,850 eligible for match exceeded the \$657,115 necessary at the 2:1 matching ratio to reach the \$1.86 million maximum in 1997 primary election public matching funds. Therefore public funds in the amount of \$1,314,230, the amount necessary to reach the \$1.86 million maximum, have been deposited into Candidate Whitman's public fund account.

McGreevey Campaign Submissions 2 and 3

Candidate James E. McGreevey's second submission for public matching funds, filed on March 10, 1997, contained \$178,554.40 in net contributions submitted for match. After complete review of the submission, three contribution items, totaling \$2,750, were found to be ineligible for match, resulting in an error of 1.2 percent. After including \$14,650 in contributions resubmitted and accepted for match, Submission 2 was found to contain a total of \$190,454.40 in contributions eligible for match. Therefore, matching funds in the amount of \$380,908.80 were deposited into Candidate McGreevey's public funds account for his second 1997 primary election submission.

Candidate James E. McGreevey's third submission for public matching funds, filed on March 24, 1997, contained a total of \$114,425 in net contributions submitted for match.

After complete review of Submission 3, 16 contribution items, totaling \$21,000, were found to be ineligible for match, resulting in an error rate of 8.2 percent. A total of \$93,925, including \$500 in contributions resubmitted and accepted for match, was determined to be eligible for match. Therefore, matching funds in the amount of \$187,850 were deposited into Candidate McGreevey's public funds account for his third 1997 primary election submission.

Andrews Campaign Submission 1

The Andrews campaign filed its first submission for 1997 primary election public matching funds on April 7, 1997. Candidate Andrews has filed a signed Statement of Agreement to participate in the 1997 primary election debates and has provided documentation that at least \$210,000 has been spent or irrevocably committed for the 1997 primary election. Initial review of the submission disclosed that a portion of the contributions submitted for match (approximately \$88,850 of \$600,706.61 in net contributions submitted for match) were made by means of checks originally issued by the Andrews Congressional campaign made payable to its Congressional contributors, who in turn endorsed the checks to the Andrews gubernatorial candidacy.

Staff believes that these checks are acceptable for match pursuant to existing commission regulations. N.J.A.C. 19:2516.11(a) requires that to be eligible for match, the contributions must be received at a time when the candidate was seeking election to the office of Governor. The Andrews campaign filed a certified Single Candidate Committee - Certificate of Organization and Designation of Campaign Treasurer and Depository (Form D-1) on November 14, 1996, to indicate that Robert E. Andrews was a candidate for governor in the 1997 primary election. All the third party contribution checks were issued by the Congressional committee and received by the gubernatorial campaign after that date.

Commission regulations contemplated submission for match of contributions by means of a third party check; see N.J.A.C. 19:25-16.18.

Murphy Campaign Statement of Qualification

On April 10, 1997, gubernatorial Candidate Michael Murphy filed a statement of qualification to participate in public financing for the 1997 primary election. A statement of qualification is filed pursuant to N.J.S.A. 19:44A-3m and N.J.A.C. 19:25-16.37 by a candidate who intends to apply to receive primary election public matching funds on a date after the last date for filing nominating petitions (April 10, 1997). In the statement of qualification for the 1997 primary election, the candidate must establish that he or she has raised and spent \$210,000 in contributions of \$2,100 or less.

The statement of qualification filed by the Murphy campaign reported that a net total of \$275,520 in contributions was eligible for match. Initial review of the reported contributions indicates that a sufficient number of them are eligible for match so that the \$210,000

qualification threshold is exceeded. Candidate Murphy has submitted a signed agreement to participate in the 1997 primary election debates and has also demonstrated that \$210,000 has been spent on his 1997 primary election candidacy. Staff has therefore determined that Candidate Murphy is qualified to receive 1997 primary election public matching funds and to participate in the candidates' debates.

A number of the reported contributions on the Murphy statement of qualification (totaling in excess of \$26,000) were deposited into the campaign account more than ten days after receipt of the contributions by the campaign. N.J.S.A. 19:44A-12 requires that all funds received by a campaign treasurer be deposited into the campaign depository no later than ten days after receipt.

Murphy campaign treasurer Hugh F. Hall has explained that the delay in deposit of contributions occurred when the campaign switched from use of a post office box to receipt of mail at the newly-established campaign headquarters. The post office box was not checked on a routine basis because the staff member who was responsible for checking the post office box underwent surgery in February, 1997. Further, contributors continued to mail contributions to the post office box based upon address information on old stationery which was inadvertently being used by fund raising staff even after new stationery was printed with the correct headquarters street address.

The purpose of the ten-day deposit rule is to prevent campaigns from delaying deposit of contributions to prevent timely disclosure of contributor information. Because a publicly-financed gubernatorial campaign must report all contributions in its submissions for matching funds, and because the submissions are filed weeks prior to the due date for the 29-day preelection report (May 5, 1997), no preelection disclosure of contributions to the Murphy campaign has been lost by the delayed deposit of contributions. Staff therefore recommended that these contributions be eligible for match with 1997 public funds.

The statement of qualification filed by the Murphy campaign is being treated as a submission for matching funds filed on April 14, 1997, and will now be subject to complete review by staff.

On a motion by Commissioner Franzese, seconded by Vice Chair Linett and approved by a vote of 3-0, the Commission ratified the public financing report and certification of public funds as presented by Director Massar.

6. Adoption of Proposed Amendments to Gubernatorial Regulations Concerning Contributions from Affiliated Corporations

Staff recommended that a proposal to amend the Commission's regulations for gubernatorial primary and general elections concerning contributions from affiliated

corporations, N.J.A.C. 19:25-15.12 and 16.10, be adopted. The proposal and a correction to a typographical error in N.J.A.C. 19:25-16.30(d)1, were published in the March 3, 1997 New Jersey Register.

A public hearing on the proposal was conducted on March 25, 1997, and no persons offered testimony. The deadline for public comment was April 2, 1997, and no written comments were received. The Amendments will become effective upon publication in the New Jersey Register on May 19, 1997.

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 3-0, the Commission adopted the Amendments to gubernatorial regulations concerning contributions from affiliated corporations and directed staff to file the adoption with the Office of Administrative Law.

7. Public Comment

Robert Long, Treasurer for the McGreevey 1997 primary election campaign, inquired whether there could be more time for candidates to file Personal Financial Disclosure Statements (Form PFD).

Executive Director Herrmann explained that the Commission has supported legislation to extend the filing deadline, but it is fixed by statute.

8. Resolution to Go Into Executive Session

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 3-0, the Commission resolved to go into closed Executive Session to discuss 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 no later than 35 days after mailing.
- 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 no later than 50 days after mailing.
- C. A report on written requests for investigations of possible violations, which report will not become public. However, any complaint which may be generated as a result of a request for an investigation will become public no later than 50 days after mailing.

9. Return to Public Session

On a motion by Commissioner Franzese, seconded by Vice Chair Linett and passed by a vote of 3-0, the Commission voted to return to public session.

10. Adjournment

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 3-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz