



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Vice Chair

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PUBLIC SESSION MINUTES

July 21, 1999

Chair Martin, Vice Chair Linett, Counsel Wyse, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Commissioner Franzese and Commissioner Ware participated by telephone.

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 11:10 a.m. in Trenton.

2. Approval of Public Session Minutes of June 24, 1999

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission approved the Public Session Minutes of June 24, 1999.

3. Executive Director's Report

A. Budget

Executive Director Herrmann reported that the FY-00 budget is \$2.537 million, which is a \$1/2 million increase over the operating budget for FY-99. He said that the additional funding will be used to upgrade and maintain ELEC's new computer system.

B. Computer

The Executive Director said that ELEC's web site continues to be improved. Executive Director Herrmann noted that staff has added recently newly issued advisory opinions and listings of complaints and final decisions. He mentioned that in the near future staff will be adding forms and instructions, candidate compliance manuals, advisory opinion and investigative request forms, and G-99 legislative data.

Executive Director Herrmann advised the Commission that on June 27 and June 28, 1999, Deputy Legal Director Nedda Massar attended a two-day roundtable discussion in Chicago on electronic reporting. He said that ethics agencies from around the country discussed their progress in developing new systems. According to Dr. Herrmann, the information Director Massar gathered will be very valuable to staff as it continues to implement ELEC's electronic disclosure project. He added that Director of Compliance and Information Evelyn Ford will be running an electronic filing pilot program this fall for general assembly candidates to test ELEC's newly developed software. Executive Director Herrmann informed the Commission that a mailing went out to all candidates in early July. He advised that those selected will meet with staff in mid-August for training.

According to Executive Director Herrmann on July 12, 1999, Sam Perelli, the Director of the New Jersey Taxpayer's Association, told him that ELEC was doing "an extraordinary job" with its electronic disclosure project.

C. Staff Activities

Executive Director Herrmann advised the Commission that on July 14, 1999, he testified before the Pennsylvania House State Government Committee during a public hearing in Harrisburg on HB-1650, which establishes a public financing program for the offices of Governor and Lt. Governor. He said that the bill is modeled after New Jersey's program, which the sponsor of the bill stated is "the first and arguably the best public financing program in the country for gubernatorial elections." Executive Director Herrmann stated that he presented a New Jersey perspective on public financing to help the committee in its evaluation of the bill on which he had provided technical assistance. He noted that the Pennsylvania Cable Network (PCN) televised the entire hearing.

Executive Director Herrmann announced that on July 31, 1999, Assistant Compliance Officer Amy Davis is running an informational seminar sponsored by the Council of Alternative Parties for about 200 independent candidates at the Allaire Airport in Monmouth County.

D. Fall Meeting Schedule

August 18, 1999 at 11:00 a.m. (will be held as an emergency meeting only)

September 13, 1999 at 11:00 a.m.

October 20, 1999 at 11:00 a.m.

November 17, 1999 at 11:00 a.m.

4. Public Hearing on Proposed Regulation Concerning Use of Ink and Typeface

A public hearing was held, recorded by a Court Reporter, on proposed new rule, N.J.A.C. 19:25-1.10, Preparation of reports. This proposed rule requires that reports filed with the Commission be legible and be prepared in black ink using printed lettering or typed lettering. If electronically filed, the proposed rule requires filing in a format in conformity to that of the corresponding Commission form.

No persons appeared to offer testimony. Legal Director Nagy indicated that one written comment was received from Steven A. Janes, Treasurer, Essex County Republican Committee, who commented favorably upon the proposal. Legal Director Nagy read the comment into the record.

On a motion by Commissioner Franzese, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission approved adoption of the new rule and directed staff to file the adoption with the Office of Administrative Law (OAL) subject to receipt of no further written comments by 5:00 p.m. on July 21, 1999.

5. Adoption of Gubernatorial Primary and General Election Regulations

On a motion by Vice Chair Linett, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission adopted the proposed new rules and amendments concerning public financing of gubernatorial primary and general elections, a new rule concerning receipt of contributions by electronic transfer of funds, and amendments to accommodate technology now used by candidates and committees, and directed staff to file the adoption with the Office of Administrative Law.

6. Advisory Opinion Request No. 02-1999

This Advisory Opinion Request was submitted by Jeryl Kortlander, Treasurer, Election Fund of Steve Corodemus. Ms. Kortlander asked whether or not Assemblyman Corodemus' funds may be invested in stocks or bonds and whether such securities would be valued at cost or market price.

Staff recommended that Assemblyman Corodemus' candidate committee be permitted to establish a separate account to be used solely for investing campaign funds. Staff recommended, however, that any investments should be limited to certificates of deposit from banking or savings institutions, federal or state government obligations, or money market funds. It recommended that investments in stocks or non-government bonds be prohibited.

Vice Chair Linett noted that the Commission has prohibited investment of gubernatorial public matching funds because investment is not among the statutory

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permissible uses of public funds. Vice Chair Linett continued by stating that while he believes that campaign funds should not be invested at all but instead placed in a bank interest bearing account, he nevertheless is not certain that under the statute the Commission has any authority to preclude the investment of funds, even in stocks and bonds. Vice Chair Linett said that with the suggested response to the advisory opinion, it appears as if the Commission is legislating. He said that the statute is very vague.

Executive Director Herrmann explained that the needs of longer, on-going non-gubernatorial campaigns can be distinguished from the needs of shorter gubernatorial campaigns. Longer campaigns need to protect funds from inflation.

Chair Martin said that he agreed that the statute is very vague. Therefore, he continued, the Commission could go either way in this matter.

Counsel Wyse suggested that there is a distinction between putting money in a deposit account and buying property, such as stocks.

Chair Martin asked: what do other states do?

Legal Director Nagy explained that the Federal Election Commission seems to permit any kind of investment, especially investments in money market accounts.

Vice Chair Linett said that the Commission's role was not to insure the integrity of private money but to promote disclosure.

Chair Martin suggested that the Commission simply state that it is inclined to be against investing in stocks and bonds. Further, he said, the response should refer the requestor to prior Advisory Opinions 02-1992, 01-1990, 02-1989, and 34-80 for guidance on how funds can be invested.

He said that staff should also explore the issue further and place the item on the agenda in October 1999.

Commissioner Franzese stated that while she approved of the staff recommendation, she thought that additional study of the issue would be useful.

On a motion by Commission Ware, seconded by Commissioner Franzese and passed by a vote of 4-0, the Commission adopted the response articulated by Chair Martin immediately above. It also instructed staff to place the issue on the October, 1999 agenda for further discussion.

At this juncture, Vice Chair Linett referred back to agenda item No. 5, the public financing regulations, and suggested that the Commission may want to consider an additional regulation regarding labeling of Internet advertising.

Legal Director Nagy noted that the Federal Election Commission has created a task force to address such questions. The Commission instructed staff to inquire further into this area.

Chair Martin opened the floor to the public.

Dr. Leonard Flynn, representing the Libertarian Party, complained that the Commission spent a significant amount of time discussing the investment of campaign funds but none discussing the very important issue of labeling Internet advertising, included in item No. 5. Dr. Flynn opposes Internet advertising labeling.

Chair Martin said that the Commission has received much information on item No. 5 and that it plans to address the issue of Internet labeling at a future meeting.

Dr. Flynn suggested that regulatory proposals from the Commission should be posted on its web site.

Executive Director Herrmann said that the Commission already has plans to do just that.

Ms. Ingrid Reed, representing Eagleton Institute of Politics, said that she was pleased about the steps the Commission has taken on gubernatorial debates and looks forward to working with the Commission on techno-democracy, or ways to expand use of the Internet by candidates.

7. Resolution to Go Into Executive Session

On a motion by Commissioner Franzese, seconded by Vice Chair Linett and passed by a vote of 4-0, 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.

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8. Adjournment

On a motion by Vice Chair Linett, seconded by Commissioner Ware and passed by a vote of 4-0, the Commission voted to adjourn at 1:00 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz