



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

April 13, 2005

All of the Commissioners and Counsel Wyse participated by telephone. Senior Staff were present.

1. Open Public Meetings Statement

Chair English 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 2:00 p.m. in Trenton.

2. Resolution to go into Executive Session

On a motion by Commissioner Davis, seconded by Commissioner Burstein and passed by a vote of 4-0, the Commission resolved to go into Executive Session to discuss pending litigation.

3. Return to Public Session

On a motion by Commissioner Burstein, seconded by Commissioner Davis and passed by a vote of 4-0, the Commission voted to return to Public Session.

4. Advisory Opinion Request No. 02-2005

At its April 5, 2005 meeting, the Commission considered a request by Peter G. Sheridan, Esq. on behalf of Forrester for Governor, Inc. which sought a ruling that Candidate Forrester be permitted to use an unlimited amount of his personal funds to meet the \$300,000 threshold for participation in the 2005 primary election Republican candidates' debates.

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At its April 5, 2005 meeting, the Commission, by a vote of 2-2, deadlocked as to whether or not Candidate Forrester met the criteria for participation in the public financing debates. (See minutes of April 5, 2005). The Commission directed Counsel Wyse to further analyze the issue, as well as to address the question as to remedy if the Commission vote remained tied at 2-2.

Commissioner Burstein stated that while he still adheres to his initial analysis of the applicable law, after further consideration, he has decided to change his vote to allow Mr. Forrester to participate. He said that it was a matter of simple equity and that he has come to believe that on balance the public interest is better served by Mr. Forrester's participation. Commissioner Burstein added that following the general election, the issue should be further studied and reconsidered.

Commissioner Davis stated that he would also change his vote. He said that he accepts Commissioner Burstein's public interest argument and that institutionally it is important for the Commission to be unanimous on this issue.

Vice Chair Tober stated that he maintains his original position that inclusion is of paramount concern.

On a motion by Commissioner Burstein, seconded by Commissioner Davis and passed by a vote of 4-0, the Commission rescinded its motion of April 5, 2005.

On a motion by Commissioner Burstein, seconded by Commissioner Davis and passed by a vote of 4-0, the Commission voted to permit Mr. Forrester to participate in the publicly sponsored debates. The Commission adopted as part of the motion the directive that this response applies only to Mr. Forrester and to no other candidate.

5. Request to Rescind Debate Sponsor Selection

Tom Wilson, Chairman of the New Jersey Republican State Committee, asked the Commission to rescind its selection of the League of Women Voters of New Jersey Education Fund (LWVNJEF) as a sponsor of a 2005 primary election Republican candidates' debate. Mr. Wilson asked that the debate instead be awarded to New Jersey Network (NJN), with the Philadelphia Inquirer, and the Gannet New Jersey Newspaper Chain, the other consortium selected to sponsor a primary election debate.

Mr. Wilson advanced two objections to the LWVNJEF as a sponsor of a Republican candidates' debate. He argued that there is an appearance of a conflict of interest with Candidate Steve Longan and that the debate format does not provide sufficient time for a full discussion of the issues.

The law does not contain an "appearance of conflict" prohibition on sponsor selection. It does provide for debates of at least one hour.

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Mr. Wilson maintained that because the League of Women Voters submitted legal briefs in opposition to lawsuits filed per Steve Lonegan, the League of Women Voters put themselves in an adversarial position with Mr. Lonegan, thereby creating, at a minimum, the appearance of a conflict of interest.

Mr. Wilson stated also that the one-hour debate format proposed by the LWVNJEF and its co-sponsors does not provide enough time for each Republican candidate to thoroughly discuss their positions on the issues. He said that each candidate would only have about seven minutes to express his point of view on important issues facing the State.

Mr. Wilson indicated that a two-hour format is preferential to the one-hour format.

Commissioner Davis cited the fact that the League is made up of two different organizations that are separate from each other. He said one could take positions and the other cannot.

Mr. Wilson stated that there may be a legal distinction between the League of Women Voters and the League's Educational Fund, but in reality they are the same entity.

Commissioner Burstein stated that the League filed an Amicus Brief and was not a litigant. He further stated that the League took a position on public policy not against Mr. Lonegan personally.

Mr. Wilson maintained, nevertheless, that the stance by the League against Mr. Lonegan's suit could give the impression that Mr. Lonegan would not be treated fairly. He asked rhetorically, if the GOP established an education fund, would it be chosen as a debate sponsor for a Democratic debate.

Vice Chair Tober noted that Linda Munick of WPVI-TV, stated that she would be the one filtering questions, not the League.

Mr. Wilson responded that this fact slightly lessens the concern but that the League will still play an important role.

Chair English noted that the issue litigated by Mr. Lonegan was one of public policy, notably involving the State Constitution and the State debt.

Chair English recognized Mayor Steve Lonegan.

Mr. Lonegan mentioned a number of issues on which the League has taken positions in opposition to him and to the positions of most other GOP candidates. He said, the League favors the "Mt. Laurel" decision, and he does not. He said the League favors partial birth abortion, and he does not; and he stated the League supported the McGreevey proposal for a 15¢ hike in the gas tax, but he did not. He said that a one-hour debate also works to promote the League's policy positions.

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Chair English recognized Patricia Tieman, President of the League of Women Voters.

Ms. Tieman stated that questioning the League's fairness in conducting debates was an affront to the League. She said that a difference of opinion on public policy was irrelevant and that neither of the League's organizations has ever or would ever endorse candidates. She said that all League debates have been conducted fairly with each candidate treated equally. She said the League does not impose any control over questioning.

Danzey Burnham, Executive Director of the League of Women Voters, stated that policy positions are not relevant to what the Education Fund does and that the League has not received any complaints about its past conduct in debates.

On a motion by Commissioner Burstein, seconded by Commissioner Davis and passed by a vote of 4-0, the Commission voted to reject Mr. Wilson's request to rescind selection of the LWVNJEF as a debate sponsor and to uphold the League of Women Voter's sponsorship of one Republican public financing primary election debate.

6. Adjournment

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

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz