



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

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Legal Counsel

PUBLIC SESSION MINUTES

July 17, 2007

Chair English, Vice Chair Tober, Commissioner Burstein, Counsel Wyse, and 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 11:00 a.m. in Trenton.

2. Approval of Public Session Minutes of June 19, 2007

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission approved the Public Session Minutes of June 19, 2007.

3. Executive Director's Report

A. Commissioner News

On behalf of the Commission, Executive Director Herrmann expressed congratulations to Commissioner Burstein upon his reappointment to ELEC for another term. According to the Executive Director, the Senate confirmed his nomination on June 19, 2007.

Executive Director Herrmann reported that ELEC's first Chair, Frank Reiche, called him in June to say how impressed he was by the Clean Elections brochure he received in the mail. The Executive Director noted that former Chair Reiche and his wife are registered voters in the 14th Legislative District. Executive Director

Public Session Minutes

July 17, 2007

Page 2

Herrmann mentioned that Mr. Reiche said that the direct mail piece was very well done and believes it will be read with great interest by the district's voters. The Executive Director added that the former Chair sends his greetings and best wishes to everyone at the Commission and was very pleased to hear about Commissioner Burstein's reappointment.

B. Budget Update

Executive Director Herrmann announced that Governor Corzine signed the State Budget on June 28, 2007, and as expected, the Commission received a continuation budget of \$4.8 million and carryover language for funding the Clean Elections program.

C. National News

The Executive Director advised the Commission that on June 25, 2007, the U.S. Supreme Court ruled in the Wisconsin Right to Life case that corporate issue ads may not be banned by the Bipartisan Campaign Reform Act (BCRA) shortly before an election unless they can only be read to support or oppose a candidate. He said that this decision could lead to a bigger role for corporations, unions, and other interest groups in the 2008 federal elections and could impact similar legislation in the states.

D. Computer Update

According to Executive Director Herrmann, during the week of June 18, 2007, the primary and secondary air conditioning systems in the computer room failed endangering ELEC's servers. He stated that thanks to a fast and efficient response by the Information Technology (IT) staff, major problems were eliminated by implementing a tertiary backup plan. Executive Director Herrmann indicated that special mention needs to be given to Director of IT Carol Neiman, Associate Director Kim Vandegrift, Associate Computer Technician Lou Solimeo, and Assistant Computer Technician Ken Colandrea for a job well done.

E. Staff Activities

The Executive Director reported that on June 5, 2007, he was interviewed by Charlie Pollett on New York City Bloomberg Radio about the 2005 primary election.

The Executive Director said that two weeks before the election, New Jersey was on track for its most expensive primary in history with \$16.1 million already spent. He noted that in 2003, the last time both houses ran, only \$16.7 million was spent by the end of the election. He added that modern campaigns are expensive propositions with the need to spend money on: TV, cable, radio, direct mail, the Internet, billboards, polling, and consultants. Executive Director Herrmann mentioned that, moreover, New Jersey is between two of the most expensive media markets in the nation—New York City and Philadelphia.

Public Session Minutes

July 17, 2007

Page 3

Executive Director Herrmann also mentioned that the rate of inflation for campaign costs runs considerably higher than for consumer products. In his remarks, the Executive Director highlighted ELEC's website as a great source of detailed campaign finance information for the public.

The Executive Director informed the Commission that on June 29, 2007, the staff released the final spending figures for primary 2007. He stated that once again, Compliance Director Ford, Director of IT Neiman, and their staffs did a wonderful job in compiling a great deal of information for the media and the public in a very short period of time. According to the Executive Director, with \$25.4 million in spending, this election was the most expensive primary in State history costing almost \$9 million more than primary 2003, the last time both houses of the Legislature were running together.

Executive Director Herrmann announced that Director of Finance and Administration Gary Alpert left the Commission in June for a similar position with the Office of Information Technology, adding that he did a fine job as ELEC's Chief Administration Officer over the past two years and will be greatly missed. The Executive Director said that a search is on for his replacement.

Executive Director Herrmann advised the Commission that the Pay-to-Play disclosure law requires that businesses file with ELEC by September 30, 2007, contract and campaign contribution information if they received \$50,000 or more in the aggregate during 2006 in governmental contract payments. He said that to assure good compliance, the Special Programs staff has distributed a filing reminder to county and municipal clerks, lobbyists, and other interested entities. The Executive Director mentioned that, moreover, staff has contacted various organizations that serve the business community and requested that they provide information about the filing requirement on their websites and in their publications. He said that in addition, the Departments of the Treasury and Community Affairs were asked to post a filing notice and website link to ELEC on their Internet sites.

Executive Director Herrmann reported that on July 11, 2007 and July 12, 2007, he served as a panelist on a two-day program held respectively in Trenton and West Orange entitled "The Latest Developments in New Jersey Legal Ethics." According to the Executive Director, the programs were sponsored by New Jersey Institute for Continuing Legal Education (ICLE). He noted that the featured speaker was Paula Franzese, the Chair of the State Ethics Commission (SEC) and former Vice Chair of ELEC. Executive Director Herrmann noted that joining her on a three-member panel were: Kathleen Wiechnik of the SEC, Lee Gronikowski of the Office of Attorney General, and he. The Executive Director informed the Commission that he spoke about the campaign finance laws in general as well as new developments in pay-to-play, clean elections, and lobbying.

F. Fall Meeting Schedule

- August 14, 2007 (if necessary) at 11:00 a.m. in Trenton;
- September 25, 2007 at 11:00 a.m. in Trenton; and
- October 23, 2007 at 11:00 a.m. in Trenton.

4. Report on the 2007 Fair and Clean Elections Pilot Project

Legal Director Nedda Massar reported that 17 candidates have now declared their intention to participate in the program, including two independents in the 14th District. She said that currently all six major party candidates in the competitive district have qualified for the program, with four having received the maximum in public funds. Legal Director Massar said that the declared candidates in the two other districts are busy collecting \$10 donations and reporting each week. Legal Director Massar stated that the public education efforts for the program continue and that all broadcast media ads as well as print media ads have been scheduled.

Chair English invited Professor Ingrid Reed of Eagleton Institute to comment.

Professor Reed stated that people learn in different ways. She said that some will learn through radio or TV, others through newspapers, and others through word of mouth. Professor Reed said that still others will learn of the program through the Internet. She said that Eagleton has taken ELEC's information and adapted it to its website, providing ELEC with the credit.

Chair English asked: What are we learning from candidates?

Professor Reed stated that apparently there is greater awareness among people learning from candidates than in the 2005 pilot project. She said there is earlier use of the campaign slogan of "clean candidates" than in the past.

Chair English stressed the importance of debates and having them carried on local media.

Professor Reed said she is informally in contact with local access cable networks and county colleges.

5. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and 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 not later than seven business days after mailing to the named respondents.

Public Session Minutes

July 17, 2007

Page 5

- 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 not later than seven business days after mailing to the named respondents.
- C. A report on requests from the public for investigations of possible violations, which report will not become public in order to protect the identity of informants and maintain the integrity of investigative procedures and priorities. However, any complaint alleging violations, which complaint may be generated as a result of a request for investigation, will become public not later than seven business days after mailing to the named respondents.

6. Adjournment

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to adjourn at 1:15 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz