



State of New Jersey

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Chair

ALBERT BURSTEIN
Commissioner

AMOS C. SAUNDERS
Commissioner

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

February 16, 2010

Legal Counsel Wyse, Executive Director Brindle, Deputy Director Donohue, Legal Director Hoekje, Director of Special Programs Amy Davis, Director of Review and Investigation Leonard Gicas, and Associate Legal Director Michelle R. Levy were present. Report Review Officer Lovinsky Joseph was present for the purpose of recording the minutes. Chair English and Commissioner Burstein participated by telephone. Commissioner Saunders was absent.

The meeting convened at 10:00 a.m. in Trenton.

1. Open Public Meetings Statement

Chair English called the meeting to order and Executive Director Brindle 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. It was also posted on the Commission's website.

First Public Session

2. Approval of Public Session Minutes of January 19, 2010

On a motion by Commissioner Burstein, seconded by Chair English and passed by a vote of 2-0, the Commission approved the Public Session Minutes of January 19, 2010.

3. Executive Director's Report

A. Citizens United v. Federal Election Commission (FEC)

Executive Director Brindle informed the Commission of the decision rendered by the U.S. Supreme Court on January 21, 2010. He stated that staff had analyzed the decision for any potential effect on Commission regulations.

The Executive Director noted that four sections of the decision merited particular attention:

- A declaration that bans on corporate and union independent expenditures, previously upheld in the 1990 decision of Austin v. Michigan Chamber of Commerce, are unconstitutional.
- The prohibition on direct contributions by corporations or unions was upheld.
- The “blackout period” provision of the Bi-partisan Campaign Reform Act (BCRA) was declared unconstitutional.
- Disclosure requirements were vigorously upheld.

Executive Director Brindle stated that he saw no vulnerability to the Commission’s governing statutes or “pay-to-play” contracting law.

Commissioner Burstein asked if any part of the decision could affect State restrictions on campaign contributions by regulated industries such as utilities, banks, and casinos.

The Executive Director replied that those restrictions fell under the jurisdiction of the Office of the Attorney General and were governed by different statutes other than the Reporting Act.

B. Local Contributor Database

The Executive Director reported that the Commission had achieved its goal of uploading data from the 2009 general election into the local contributor database by February. He thanked Director of Information Technology Carol Neiman, Data Entry Supervisor Brenda Brickhouse and the Data Entry staff for their efforts.

The Executive Director stated that a press release had been issued to communicate the availability of this data, and noted interest from the press in using the database to examine “pay-to-play” activity.

C. Open Public Meetings Act Bill

Executive Director Brindle informed the Commission of proposed legislation introduced by Senator Loretta Weinberg that would require meetings to be tape-recorded and minutes released on the Internet.

Chair English recalled that she had read an editorial in the Newark Star-Ledger that was in favor of the bill, but urged that its provisions be made more extensive. She stated that the Commission should be prepared to perform all necessary actions to comply with the legislation if passed.

The Chair requested that the Executive Director and Deputy Director Donohue study a potential conflict between the bill’s provision requiring immediate publication of minutes on the Internet and the Commission’s procedure as an independent Commission to approve minutes at each subsequent meeting.

D. Budget

Executive Director Brindle reported on the status of the budget cuts proposed by Governor Christie for the current fiscal year. He stated that the financial status of the Commission had remained unchanged from the report presented at the last meeting.

The Executive Director stated that the loss of \$250,000 that had previously been held in reserve for the Commission by the Office of Management and Budget (OMB) did not immediately affect the Commission's computer systems, but would delay system upgrades.

E. Analytical Press Release

Executive Director Brindle informed the Commissioners of the latest "snap-shot" analytical press release issued by the Commission, featuring data relevant to the "big six" and county political party committees.

The Executive Director reported that financial activity for those committees had decreased by 30 percent from four years ago because of the underperforming economy and pay-to-play reform.

F. YouTube Message

Executive Director Brindle announced that the Commission had uploaded a new video to the YouTube video-sharing website. He stated that the video was a recording of Chair English informing members of the general public about the new local contributor database.

G. Legislative Proposals

The Executive Director informed the Commissioners of a series of pending meetings with State officials and legislators to discuss legislative proposals.

H. Spring Meeting Schedule

- March 23, 2010 at 10:00 a.m. in Trenton;
- April 20, 2010 at 10:00 a.m. in Trenton; and,
- May 18, 2010 at 11:00 a.m. in Trenton.

4. Update on 2009 Gubernatorial Primary and General Election Public Financing Program

Special Programs Director Amy Davis reported on the status on a request for additional information approved by the Commission at its January 19, 2010 meeting into higher than average ballot reimbursement costs in the claims submitted by Bergen and Ocean County.

Director Davis stated that the Bergen and Ocean County Clerk had agreed to send additional information into printing expenses. She noted that she had just received the Ocean County information, but it would be presented in the March report as it had arrived too recently to include in the current agenda mailing. The Director reported that no information had yet been received from Bergen County.

Director Davis informed the Commissioners that staff had begun preparations for the March, 2010 Public Financing public hearing.

5. Resolution to go into Executive Session

On a motion by Commissioner Burstein, seconded by Chair English and passed by a vote of 2-0, the Commission resolved to go into Executive Session to discuss anticipated litigation, which will become public as follows:

- A. 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.

Reconvened Public Session – 11:15 a.m.

On a motion by Chair English, seconded by Commissioner Burstein and passed by a vote of 2-0, the Commission voted to reconvene the telephonic Commission meeting.

6. Public Hearing on “Sunset” Review of Regulations, and Proposed Amendments and New Rule

Chair English announced that a public hearing was being conducted to elicit public comment on the proposed readoption of the Commission regulations pursuant to the periodic “Sunset” review, with proposed amendments and proposed new rule concerning recordkeeping for the pay-to-play disclosure statement.

Legal Counsel Wyse having left after Executive Session participated at this point by telephone.

A court reporter was available to record the proceedings. The transcript will be available to the public for inspection upon request.

No individuals appeared to testify on the “Sunset” review of regulations and proposed amendments and new rule.

On a motion by Commissioner Burstein, seconded by Chair English and passed by a vote of 2-0, the Commission adjourned the public hearing.

7. Wayne Bryant Appeal

Commissioner Burstein asked Legal Counsel Wyse about any developments in the Wayne Bryant appeal.

Legal Counsel Wyse stated that no decision had yet been rendered.

8. Adjournment

On a motion by Commissioner Burstein, seconded by Chair English and passed by a vote of 2-0, the Commission voted to adjourn at 11:50 a.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz