

NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION

PUBLIC SESSION MINUTES

MARCH 29, 1982

PRESENT

Andrew C. Axtell, Member
M. Robert DeCotiis, Member
Haydn Proctor, Member
Alexander P. Waugh, Jr., Member
Scott A. Weiner, Executive Director
Gregory E. Nagy, Staff Counsel
Edward J. Farrell, General Counsel

Acting Chairman Axtell called the meeting to order and announced that pursuant to the Open Public Meetings Law, P.L. 1975, c.231, annual notice of the meetings of the Commission, as amended to include the scheduling of this meeting, had been filed with the Secretary of State's office, and that copies have been filed in the State House Annex, mailed to the Newark Star Ledger, and the entire State House press corps.

The meeting convened at 10:15 a.m. at the Commission's office.

1. Approval of Minutes of Public Session of Commission Meeting of March 8, 1982

The Commission reviewed the minutes and on motion of Commissioner Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission approved the minutes of the public session of March 8, 1982.

2. Penalty Hearing ELEC v. McCann, et al

At the direction of Acting Chairman Axtell, the Commission convened the penalty hearing in the matter of the New Jersey Election Law Enforcement Commission, the McCann et al, Commission number C-01-81(MR). This penalty hearing was conducted regarding counts 4, 6, 7 and 8 in the above-referenced matter and was being held in compliance with the terms of the Settlement Order entered by the parties. Participating in the hearing were John O'Donnell, Esq., counsel for respondent McCann and Richard Vaughn, Esq., as counsel for respondent Charles Davis. Staff Counsel Nagy presented the staff recommendations for penalty to the Commission. The proceedings were stenographically recorded by a certified shorthand reporter. Following a presentation by counsel for each of the parties and questioning by the Commission members, the hearing was closed and the Commission adjourned to closed session for the purposes of deliberation. Following deliberation, in executive session, the Commission reconvened in public session to adopt the penalties to be imposed in this matter. The adoption of the specific penalties was likewise transcribed by the certified shorthand reporter. A transcript of the Commission's determination is

(will be) annexed hereto and made a part hereof.

3. Discussion Concerning Public Financing

The Executive Director reported that Issue paper No. 8 "Repayment of Public Funds When Candidate Fails to Receive 5% of The Vote" has been finalized and will be distributed during the week of March 29, 1982. The Executive Director also reported that he was exploring the possibility of convening a meeting of leading New Jersey political scientists and academicians to explore the impact of public financing upon New Jersey's political parties. The Executive Director reported that the Commission's consultant, Neil Upmeyer, was exploring interest for such a meeting with possible participants. It is anticipated that such a meeting could be scheduled during the first week of May 1982. The Executive Director also reported that he had spoken to Herb Alexander and had conveyed to Mr. Alexander the Commission's desire to have him participate in the public financing study. Tentative plans now call for Mr. Alexander's presence in New Jersey during the first week of May 1982 for meetings and consultation with members of the Commission and the staff.

The Executive Director confirmed that arrangements had been made to conduct the Commission meeting of April 12, 1982 in Atlantic City. As a part of that meeting, the Commission will hold the second in a series of public hearings concerning public financing. The Executive Director reported that as of the present time, only Rose Monyek and Elton Conda have confirmed their intent to participate in the hearing.

4. Pending Legislation

S-1195. The Executive Director reported that he participated in a public hearing concerning S-1195, Senator Perskie's bill concerning the use of surplus campaign funds, earlier in the day during the Commission's conduct of the penalty hearing under the agenda item No. 3. The Executive Director reported that he advised the committee of the Commission's support for the bill and immediately thereafter the bill was unanimously reported out of committee, with amendments. The Executive Director reported that the amendments included ones proposed on behalf of the Commission which would expressly include in the reporting program, non-monetary other things of value which may be obtained by a public office holder and used in furtherance of activities related to the responsibilities of the public office. The Executive Director reported that the committee members viewed the bill as an effort to eliminate uncertainty as to permissible uses of campaign funds which presently exists through the absence of express statutory guidance.

S-911. The Executive Director reported he had been advised by Senator Perskie, the lead sponsor of S-911, that the bill's sponsors do not intend to promote the bill, at this time. The Executive Director also reported that Senator Perskie had received and is considering the Commission's comments to the bill.

5. Report on Commencement of Project to Review the Statute and Regulations

The Executive Director reported that the staff had convened its first meeting to commence a project consisting of a comprehensive review of the reporting Act and implementing regulations. The Executive Director pointed out that this project was initiated a number of months ago at the request of Commissioner DeCotiis. Commissioner DeCotiis expressed his intent to attend as many of the working meetings as possible and apologized for his inability to attend the first working staff meeting. Commissioner DeCotiis also indicated that it had been his intent to formally communicate with members of the legislative leadership to solicit their comment and observation as to areas of the Act which might be streamlined. However, due to his recent hospitalization, that project had been delayed and that contact would be made during the coming week.

The Executive Director reported that a second committee meeting would be convened during the coming week and that as the project proceeded, the committee's recommendations for regulatory amendment or recommendation for statutory change would be presented to the Commission together with the rationale for the proposed actions.

6. Advisory Opinion No. 08-1982

The Commission reviewed a draft advisory opinion prepared in response to a request from Mayor Kenneth Gibson who requested guidance as to the permissible use of surplus campaign funds.

General Counsel Farrell noted that the draft opinion was consistent with the Commission's policy on the subject matter. General Counsel Farrell suggested a few technical amendments for the purposes of clarity. On motion by Commissioner Waugh, seconded by Commissioner DeCotiis and a vote of 4-0, the Commission approved the draft advisory opinion, as amended.

7. Report Concerning Governor Kean's Budget Recommendations for Fiscal Year 1983

The Executive Director distributed a folder containing information pertaining to the Commission's requested budget for fiscal

year 1983 and indicating the Governor's recommendations. The Executive Director pointed out that the Governor's recommendations included funding for two of the three new positions which had been requested. Specifically, the Governor's recommendation included funding, at 75 percent of the requested level, for a new secretarial position and a third report examiner. The Executive Director also pointed out, however, that the Governor's recommendation for the current salary account is \$23,000 less than the money required to fully staff all of the Commission's current authorized positions. The Executive Director indicated that this may pose a problem in terms of achieving maximum productivity. However, even if no funds are reinserted onto this budget item, it would not adversely affect the employment status of any of the Commission's current employees.

The Executive Director continued a line by line review of the Governor's budget recommendations and indicated other instances where the Governor recommended an amount less than that requested by the Commission. Specifically, the request for data processing services represented a \$10,000 decrease (\$40,000 from \$50,000) and the amount recommended for professional services represented a decrease of \$5,000. Other accounts which were reduced, or eliminated included travel and office equipment.

The Executive Director commented that he felt that the Commission's activities could be conducted without serious impact at the levels recommended by the Governor for the non-personnel operational accounts. A lengthy discussion took place concerning the needs to insure adequate funding for the services of the General Counsel. The Commission indicated an intent that the Executive Director explore the feasibility of identifying funds which may be transferred from other accounts, during fiscal year 1983, should the need arise for additional funding in the area of professional services.

The Executive Director indicated that he would continue the review of the Governor's budget recommendations in advance of the next Commission meeting and would present a recommendation as to whether the Commission should seek to obtain reinstatement of some or all of the personnel funds which were eliminated in the Governor's recommendation. The Executive Director expressed his opinion that the deletion of salary funds was the application of the mechanical formula which was applied to all salary accounts throughout state government in an effort to reduce personal spending. It was generally agreed that while such a policy, reflecting savings from anticipated staff turnover, might be effective in a larger agency, the Commission's staffing level of approximately 20 personnel did not provide for the opportunity of accruals through that method. Rather, the Commission would be faced with leaving one or more positions vacant for an extended period of time in order to make up the shortfall that might exist.

8. Executive Director's Report

The Executive Director indicated that there was no additional business to report other than that which had been discussed during the course of the Commission meeting.

9. Executive Session

On a motion by Commissioner Waugh, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to resolve to go into executive session to review the executive session minutes of March 8, 1982, to discuss investigations and enforcement actions, the results of which will be made public at their conclusion.

10. Adjournment - On a motion by Commissioner DeCotiis, seconded by Commissioner Proctor and a vote of 4-0, the Commission voted to adjourn.

Respectfully submitted,



SCOTT A. WEINER
Executive Director

SAW/cm