



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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PUBLIC SESSION MINUTES

September 6, 2001

Chair Martin, Vice Chair Franzese, Commissioner Lederman, Counsel Wyse, Senior Staff, and Deputy Legal Director Nedda Gold Massar were present. Commissioner Ware was absent.

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 11:00 a.m. in Trenton, New Jersey.

A Court Reporter was present to record the Public Session discussion. The transcript will be available to the public upon request.

2. Approval of Public Session Minutes of July 11 and August 15, 2001

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 3-0, the Commission approved the Public Session Minutes of July 11, 2001.

On a motion by Commissioner Lederman, seconded by Vice Chair Franzese and passed by a vote of 3-0, the Commission approved the Public Session Minutes of August 15, 2001, with an amendment offered by Commissioner Lederman to explain that her abstention from voting on Advisory Opinion No. 07-2001 was based on her belief that the result would be a blueprint for evasion of New Jersey campaign finance laws.

3. Executive Director's Report

A. COGEL Conference

Executive Director Herrmann reported that the conference will be held from December 2nd through December 5th, 2001 in Lexington, Kentucky. He noted that the speakers include:

- Helen Thomas – Dean of the White House Press Corps,
- Barry Richard – Counsel for President Bush during the Florida election situation, and
- Scott Harshberger – Executive Director of National Common Cause.

Executive Director Herrmann mentioned that the program includes:

- Lobbying and campaign finance legislation updates,
- Numerous sessions about electronic filing and computerized disclosure, and
- A soft money panel.

The Executive Director suggested that Commissioners let him know their plans no later than the next meeting.

B. Staff Activities

Executive Director Herrmann introduced two new staff members: Michelle McDevitt, Assistant Compliance Officer and Michelle Levy, Assistant Legal Director.

Executive Director Herrmann informed the Commission that Director of Compliance and Information Evelyn Ford, Director of Systems Administration Carol Neiman, Assistant Compliance Officer, Titus Kamal, and Assistant Compliance Officer Nancy Fitzpatrick have been working very hard to launch the electronic filing program for the general election. He said that an invitational letter was sent to all legislative candidates in July.

According to the Executive Director, staff is hosting six introductory seminars (four in the daytime and two in the evening) to provide information and distribute software. He said that these efforts are a major step forward in ELEC's computerization project.

Executive Director Herrmann advised the Commission that the NORCOL conference was held on August 2nd in Mystic, Connecticut. He noted that Deputy Legal Director Nedda Massar, Director of Systems Administration Carol Neiman and he attended the conference. Executive Director Herrmann reported that the keynote speaker was a D.C. attorney Ki Hong, who gave an overview of the federal lobbying law. He said that he did an update of lobbying developments in New Jersey as part of the regional reporting segment of the program and that Director of Systems Administration Neiman made an outstanding presentation about lobbying information on ELEC's web site. Executive Director Herrmann mentioned to the Commission that he received the NORCOL 20th Anniversary Service Award "For His Outstanding Efforts and Contributions to NORCOL." He said that the entire meeting was televised by the Connecticut Television Network.

Executive Director Herrmann advised the Commission that on August 4 and 5, 2001, Deputy Legal Director Massar and Director of Systems Administration Neiman participated in a National Electronic Filing Roundtable in Chicago. He said that it was a very valuable two-day users group nuts and bolts session. The Executive Director noted that both Directors said that ELEC's accomplishments in computerized disclosure were well received.

C. New Campaign Financing Study

Executive Director Herrmann informed the Commission that a recent report written by Jon Shure and Lawrence Lustberg makes a number of important suggestions for improving the State's campaign finance system. He said the recommendations include:

- Banning corporate contributions,
- Reducing the contribution limit for the "Big 6" committees and considering the abolition of leadership PAC's,
- Public funding of legislative races,
- Regulating issue advocacy spending, and
- Doubling ELEC's budget so that it can better administer campaign finance at the local level.

Executive Director Herrmann added that Deputy Director Brindle and he provided technical assistance to the project's authors.

D. Fall Meeting Schedule

October 18, 2001 at 10:00 a.m. in Trenton;
November 15, 2001 at 11:00 a.m. in Trenton; and,
December 19, 2001 at 11:00 a.m. in Trenton.

4. Application of Gubernatorial Candidate William Schluter to Extend the Deadline for Qualification to Participate in Gubernatorial Public Financing and Gubernatorial Candidate Debates

Candidate Schluter testified concerning his request, filed on August 31, 2001, and circulated to the Commissioners, to extend the September 1, 2001 deadline to raise and spend the 2001 general election \$260,000 qualification threshold amount for receipt of public matching funds and participation in the gubernatorial candidates' debates.

Commissioner Lederman asked that staff further review the applicable law.

Chair Martin directed that the discussion be continued to Friday, September 7, 2001, at 1:45 p.m. to conclude discussion of Candidate Schluter's application.

5. Advisory Opinion Request No. 08-2001

Legal Director Nagy explained that the request was received on September 4, 2001, from Senator Richard J. Codey. Senator Codey asked if State funds are used to prepare and disseminate a newsletter to constituents within 90 days of the 2001 general election, would the expenses related to the newsletter be considered a reportable political communication pursuant to N.J.A.C. 19:25-10.10, and would the public funds be a reportable political expenditure pursuant to Section 10.10?

Legal Director Nagy suggested that the Commission concur with Senator Codey that the newsletter described in his request would be a political communication pursuant to N.J.A.C. 19:25-10.10. However, because no specific newsletter text was provided in Senator Codey's request, the Commission cannot express an opinion concerning the applicability of Section 10.10 to the text of any actual or existing newsletter. Legal Director Nagy indicated that nothing in the Campaign Reporting Act provides the Commission with the authority to rule on the permissible use of State legislative district office funds and advised that such an inquiry is presumably subject to the Joint Rules of the Senate and General Assembly.

On a motion by Commissioner Lederman, seconded by Vice Chair Franzese and passed by a vote of 3-0, the Commission approved the staff recommendation and directed staff to issue a response to Senator Codey's inquiry.

6. Report on 2001 Gubernatorial General Election Matching Fund Submission

Deputy Legal Director Massar reported that 2001 general election gubernatorial candidate James McGreevey has filed an agreement to participate in the debates, documented that \$260,000 has been raised and spent, and filed a Candidate Certification of Non-Participation in Issue Advocacy Organizations (Form P-2A). Staff has reviewed Candidate McGreevey's first matching fund submission and determined that he is entitled to receive \$5,337,819.70 in public matching funds. Staff recommends that the Commission find that Candidate McGreevey is qualified to participate in the 2001 general election public financing program. Staff will review Candidate McGreevey's second matching fund submission and report to the Commission.

Staff has determined that Candidate Bret Schundler's first matching fund submission contains at least \$260,000 of eligible contributions and that \$260,000 has been spent on the 2001 general election. Candidate Schundler has filed an agreement to participate in the debates, and filed an Issue Advocacy Organization Report of Contributions and Expenditures (Form P-2). Staff recommends that the Commission find that Candidate Schundler is qualified to participate in the 2001 general election public financing program. Staff will complete its review of Candidate Schundler's first and second matching fund submissions and report to the Commission.

Director Massar indicated that staff will advise the two general election debate sponsors that Candidates McGreevey and Schundler have qualified to participate in the debates.

On a motion by Commissioner Lederman, seconded by Vice Chair Franzese and passed by a vote of 3-0, the Commission approved the staff report on the 2001 general election gubernatorial public financing program.

7. Public Comment

Cole Kleitsch thanked the Commission for hearing Candidate Schluter's request.

8. Resolution to go into Executive Session

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 3-0, the Commission resolved to go into 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.

9. Return to Public Session

On a motion by Vice Chair Franzese, seconded by Commissioner Lederman and passed by a vote of 3-0, the Commission voted to return to Public Session.

10. Adjournment

On a motion by Commissioner Lederman, seconded by Vice Chair Franzese 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