



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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Vice Chairman

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PUBLIC SESSION MINUTES

May 17, 2011

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, Legal Counsel Wyse, and senior staff were present. Director of Review and Investigation Shreve Marshall and Assistant Legal Director Amanda Haines were also present. Report Review Officer Lovinsky Joseph was present for the purpose of recording the minutes. Commissioner Weiss was absent during the public session discussion.

The Public Session Minutes will be available online in the Commission's website at: <http://www.elec.state.nj.us>.

The meeting convened at 11:00 a.m. in Trenton.

1. Open Public Meetings Statement

Chairman DeFilippis 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. It was also posted on the Commission's website.

2. Approval of Public Session Minutes of April 26, 2011

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission approved the Public Session Minutes of April 26, 2011 as amended by Chairman DeFilippis.

3. Executive Director's Report

A. State Ethics Commission Training

Executive Director Brindle informed the Commissioners of a pending ethics training session to take place on June 21, 2011, facilitated by Ethics Training Officer Margaret A. Cotoia, Esq. He stated that the session would address the issues of recusal, guidelines on accepting food, partisan involvement, and general ethics and conflict of interest questions.

B. Outreach to County Parties

The Executive Director reported that the Commission had so far held 7 training sessions for county political parties, the most recent in Monmouth and Bergen County. He noted that the training sessions were facilitated by Associate Compliance Officer Nancy Fitzpatrick and Senior Compliance Officer Kim Key.

C. Analytical Press Releases

Executive Director Brindle informed the Commissioners of an analytical press release issued on May 16, 2011 concerning the 29-day preelection reports for the 2011 primary legislative election. He reported that as of the release date, the relevant committees reported \$12 million cash-on-hand.

The Executive Director further reported that legislative committees had raised \$29 million since 2007, an increase of 17 percent, but nonetheless a much smaller increase than the 1990s, in which fundraising was increasing by as much as 60 percent between election cycles. He attributed the lower growth in fundraising to the 2006 Pay-to-Play law and the underperforming economy, and noted that there was no comparable decline during the last economic recession.

The Executive Director further informed the Commissioners of a first-time analytical press release to be issued on May 18, 2011 relevant to the Personal Financial Disclosure reports submitted by legislative candidates. He stated that the press release would cover general analytical topics such as earned income and compliance rates.

Vice Chairman Timpone asked the Executive Director for the purpose behind the Personal Financial Disclosure program and how detailed the public information would be.

Executive Director Brindle replied that the forms were not extremely detailed, and served as an attempt to inform the public to the greatest degree possible.

The Vice Chairman asked if the form would require disclosure of net worth.

The Executive Director replied in the negative, and stated that the information requested included earned and unearned income, salaries, bonuses, royalties, commissions, and other miscellaneous income over \$100.

The Executive Director noted that the analytical press release categorized income, but did not name specific individuals.

D. Local Contributor Database

Executive Director Brindle reported that Data Entry Supervisor Brenda Brickhouse, Associate Data Entry Supervisor Darlene Kozlowski, and the Data Entry staff had completed uploading information relevant to municipal elections up through the 11-day preelection report period for the 2010 general election. He stated that the Data Entry staff would continue to upload more information to the local contributor database on a rolling basis.

Chairman DeFilippis noted that the Data Entry program of uploading data onto the local contributor database was about six months behind the latest election date. He asked Executive Director Brindle if the gap was closing or consistent.

The Executive Director replied that the six month gap was consistent as the process of entering information was laborious and the program still in its infancy.

The Chairman suggested that universal electronic filing would help the Data Entry staff upload the data much faster. He expressed concern about the time in which members of the public would be unable to view reports.

Executive Director Brindle replied that all reports are scanned into FileNet the day after receipt by the Commission, and may be viewed by the public almost immediately; the delay is in uploading the separate searchable contributor data to the system.

E. Annual Symposium – Trenton Chapter of the Association of Government Accountants

The Executive Director reported that he participated in a panel discussion with Dale Florio and Ed Mount hosted by the Trenton Chapter of the Association of Government Accountants on April 29, 2011. He stated that the discussion concerned the regulation of lobbying, and was a positive experience.

F. Assembly Budget Committee Hearing

Executive Director Brindle informed the Commissioners that he had attended the Assembly Budget Committee hearing on May 5, 2011 with Director of Finance and Administration Steven Dodson. He reported that no questions had been asked of the Commission at the meeting.

G. Federal Actions

The Executive Director reported that the Internal Revenue Service had begun increased enforcement of taxes on gifts to 501(c)(3) nonprofit organizations. He noted that efforts to require disclosure on the federal and state levels have so far been unsuccessful.

Executive Director Brindle further reported on the decision rendered by the Eighth Circuit Court of Appeals on May 16, 2011 in the case of Minnesota Citizens Concerned for Life v. Swanson. He stated that by a 2-1 majority, the court had upheld Minnesota's disclosure requirements for independent expenditures. He noted that this decision was similar to that rendered by the Ninth Circuit Court of Appeals in SpeechNow.org v. FEC, and suggested that the appellate courts were establishing a pattern of ruling in favor of disclosure.

H. Spring/Summer Meeting Schedule

- June 21, 2011 at 11:00 a.m. in Trenton;
- July 19, 2011 at 11:00 a.m. in Trenton; and,
- August 16, 2011 at 11:00 a.m. in Trenton (if needed).

At this juncture, former Commissioner Jerry Fitzgerald English entered the meeting, and was greeted by Chairman DeFilippis.

4. Resolution to go into Executive Session

On a motion by Commissioner Saunders, seconded by Vice Chairman Timpone and passed by a vote of 3-0, the Commission resolved to go into Executive Session to discuss anticipated litigation, 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.
- 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.

Return to Public Session

5. Recognition of Former Chair and Commissioner Jerry Fitzgerald English

Chairman DeFilippis recognized former Chair and Commissioner English for her service and asked Commissioner Saunders to speak of her accomplishments before presenting a proclamation.

Commissioner Saunders spoke of his long friendship with former Chair English, and how she provided guidance to him early in his State career. He recalled how pleasant it was to work with her at the Commission, and noted that her seven year tenure as Chair was the longest in the history of the Commission. Commissioner Saunders expressed his thanks, and recognized the major changes enacted during former Chair English's tenure, such as lobbying regulation, the Clean Elections Program, pay-to-play reform, and the Gubernatorial Public Financing Program, all of which have increased the Commission's responsibilities as well as its prestige.

Chairman DeFilippis read the proclamation from the Commission recognizing former Chair English for her accomplishments at the Commission, Department of Environmental Protection, Port Authority of New York and New Jersey, fairness in judgment, and positive example. He presented her with the proclamation and expressed his best wishes for the future.

Former Chair English expressed her thanks to the Chairman and Commissioners.

Vice Chairman Timpone read a proclamation from Governor Christie recognizing former Chair English's service, fairness, integrity, and benefit to the State. He presented her with the proclamation and expressed his best wishes for the future.

Executive Director Brindle read a joint Legislative resolution recognizing former Chair English's service to the Commission, Department of Environmental Protection, Port Authority, counsel to Governor Byrne, professional accomplishments in private practice, the New Jersey and International Bar Associations, Democratic National Committee, and Passaic River Coalition. The Executive Director recalled former Chair English's appreciation of staff and attention to detail. He presented her with the resolution and expressed his best wishes for the future.

Commissioner Weiss recalled meeting former Chair English for the first time during the 1970s, before any of the Commissioners or staff. He stated that New Jersey was fortunate to have such a committed individual who personified the ideal of public service.

Executive Director Brindle presented former Chair English with a ceremonial gavel, and expressed his thanks for her service.

Former Chair English spoke of her learning experience at the Commission and the unique position of working for two administrations. She recalled former Executive Director Frederick M. Herrmann with affection, and thanked Executive Director Brindle for providing continuity of good leadership. The former Chair likewise thanked Legal Director Hoekje for providing continuity of good leadership after the retirement of former Legal Director Nedda Massar, and encouraging a new emphasis on enforcement. Former Chair English also praised Deputy Director Donohue for his valuable experience in the press, and commitment to his new position. She commended Director of Review and Investigation Marshall for his long experience and tenacity.

The former Chair expressed the opinion that the Commission through its capable leadership was able to retain the confidence of the Governor, courts, and the press, and that integrity was a powerful asset. She stated that the Commission's reputation was worth boasting about, and would miss its members and staff, who have retained a high quality of service despite budget constraints, furloughs, and other sacrifices.

6. Adjournment

On a motion by Commissioner Saunders, seconded by Commissioner Weiss and passed by a vote of 4-0, the Commission resolved to adjourn at 12:40 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director