



State of New Jersey

RONALD DEFILIPPIS
Chairman

WALTER F. TIMPONE
Vice Chairman

AMOS C. SAUNDERS
Commissioner

ELECTION LAW ENFORCEMENT COMMISSION

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JEFFREY M. BRINDLE
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Legal Director

AMY F. DAVIS
Compliance Director

EDWIN R. MATTHEWS
Legal Counsel

PUBLIC SESSION MINUTES

November 20, 2012

Chairman DeFilippis, Vice Chairman Timpone, Legal Counsel Matthews, and senior staff were present. Director of Review and Investigation Shreve Marshall was also present. Assistant Report Examiner Lovinsky Joseph was present for the purpose of recording the minutes. Commissioner Saunders was absent for the Public Session discussion, except as indicated below (Return to Public Session).

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 October 16, 2012

On a motion by Vice Chairman Timpone, seconded by Chairman DeFilippis, and passed by a vote of 2-0, the Commission approved the Public Session Minutes of October 16, 2012.

3. Approval of Public Session Minutes of October 25, 2012

On a motion by Vice Chairman Timpone, seconded by Chairman DeFilippis, and passed by a vote of 2-0, the Commission approved the Public Session Minutes of October 25, 2012, as amended by Vice Chairman Timpone.

4. Executive Director's Report

A. Outside Spending

Executive Director Brindle informed the Commissioners that approximately \$3.3 million had been spent independently on Congressional races in New Jersey.

B. Legislative Election

The Executive Director Reported that \$132,732 had been spent independently in legislative races in the 4th, 16th, and 26th districts. He noted that casino magnate Sheldon Adelson's "Super PAC" Patriot Prosperity had spent \$111,000 in a local race in Burlington County.

Executive Director Brindle predicted that approximately \$25 million will be spent in the 2013 gubernatorial election, and anticipated that outside spending would also increase. He stated that the increased spending in gubernatorial elections made the Commission's Public Financing Program even more important.

The Executive Director noted that the Commission has proposed legislation to disclose outside spending, but as there has not been action on the proposal in the Legislature, outside spending would largely remain anonymous.

C. Pay-to-Play – In-House Information Sessions

Executive Director Brindle informed the Commissioners that staff held an in-house Pay-to-Play information session on November 16, 2012 with 30 attendees. He stated that future sessions would be held on January 25, 2013, February 22, 2013, and March 15, 2013.

D. Lobbying Seminars

The Executive Director reported that lobbying seminars would be held on January 4, 2013, January 8, 2013, January 14, 2013, January 24, 2013, January 30, 2013, and February 4, 2013. He stated that sessions for campaign treasurers were to be announced.

E. Scanning and Coding of Reports

Executive Director Brindle informed the Commissioners that the Compliance and Data Entry staff has had a busy month, scanning and coding 18,373 campaign and continuing political committee reports, and almost 1,000 lobbying reports. He added that these reports were available on the Commission's website within 48-hours of receipt, and congratulated Compliance and the Data Entry staff for processing such a large volume of reports swiftly.

F. Ethics Training

The Executive Director reported that all staff members had attended or were scheduled to attend and complete ethics training provided by the State Ethics Commission, facilitated by Ethics Training Officer Margaret Cotoia.

G. Federal Cases

Executive Director Brindle informed the Commissioners of the decision rendered by the U.S. District Court for the District of Columbia in the case of Wagner v. FEC, which upheld the FEC's prohibition on federal contractors making contributions in connection with federal elections.

Chairman DeFilippis asked if federal contractors would be able to circumvent the FEC's prohibition on contributions related to federal elections by giving money to outside donors.

Executive Director Brindle replied in the affirmative.

The Chairman stated that it seemed unusual for a nationally-oriented "Super PAC" like Sheldon Adelson's Patriot Prosperity to intervene in a local freeholder race in Burlington County.

The Executive Director noted that Mr. Adelson was based in Las Vegas, not in New Jersey.

The Executive Director stated that this decision meant that the Commission's Pay-to-Play Law was secure for the moment.

H. 2013 Commission Meeting Schedule

Executive Director Brindle presented the Commissioners, for their approval, the 2013 proposed meeting schedule.

On a motion by Vice Chairman Timpone, seconded by Chairman DeFilippis and passed by a vote of 2-0, the Commission approved the 2013 Commission Meeting Schedule.

I. Winter Meeting Schedule

- December 18, 2012 at 11:00 a.m. in Trenton;
- January 15, 2013 at 11:00 a.m. in Trenton; and,
- February 19, 2013 at 11:00 a.m. in Trenton

5. Adoption of Amendments concerning Personal Financial Disclosure Statements

Legal Director Carol Hoekje provided a summary for the adoption of proposed amendments concerning Personal Financial Disclosure Statements. The proposed amendments would eliminate the obligation to file two paper copies of the PFD along with the original, and would require the Commission to post PFDs on the Commission's website within seven business days of receipt. The proposal notice was published in the August 6, 2012 edition of the New Jersey Register and is also posted on the Commission's website.

No witnesses appeared to testify at the public hearing and no written comments have been received.

Chairman DeFilippis asked if the Commission could adopt with one member not present.

Legal Director Hoekje replied that the current Commission could approve items with two members present as long as the vote was not one specified by statute. She referred to an opinion from the Office of the Attorney General.

On a motion by Vice Chairman Timpone, seconded by Chairman DeFilippis and passed by a vote of 2-0, the Commission approved the amendments concerning Personal Financial Disclosure Statements.

6. Adoption of New Rules and Amendments concerning Lobbying Reporting Obligations

Legal Director Hoekje provided background for adoption of proposed new rules and amendments concerning lobbying reporting obligations. The proposed new rules and amendments would require electronic filing of all annual reports and related designations (Forms L1-L or L1-A, L1-G, L-2, and L-3) and the use of electronic filing software provided by the Commission. In addition, the proposed amendments would substitute the term “represented entity” throughout the regulations for the term “lobbyist.” The proposal notice was published in the August 6, 2012 edition of the New Jersey Register and is also posted on the Commission’s website.

One witness testified at the public hearing, and two persons submitted written comments.

Legal Director Hoekje thanked the members of the public who testified and submitted written comments.

Legal Director Hoekje stated that staff made a small adjustment to the definition language in response to the comment submitted by Mary Kathryn Roberts, Esq.

Chairman DeFilippis expressed his belief that regulations should be as clear as possible. He stated that although the new rules and amendments were not ideal, the changes presented represented a definite improvement.

Executive Director Brindle noted that he still uses the term “lobbyist” in public communications, as that term is most familiar to the general public.

On a motion by Vice Chairman Timpone, seconded by Chairman DeFilippis and passed by a vote of 2-0, the Commission voted to thank the members of the public who provided comment and to approve the New Rules and Amendments concerning Lobbying Reporting Obligations as amended by staff with substantial changes not requiring re-proposal.

7. Public Comments

Chairman DeFilippis asked if any members of the public wished to comment. Seeing none, he requested a motion to enter into Executive Session.

8. Resolution to go into Executive Session

On a motion by Vice Chairman Timpone, seconded by Chairman DeFilippis and passed by a vote of 2-0, the Commission resolved to go into Executive Session to discuss anticipated litigation and current litigation, which will become public as follows:

- A. Final Decision Recommendations in complaint 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. The reports 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.
- C. Matters under current litigation, the substance of discussions of which will not become public in order to protect the attorney-client privilege and the deliberative process. However, any litigation in which the Commission is currently a party is a public matter and will become public subject to the above limitations and privileges.

Return to Public Session

At this point, Commissioner Saunders was participating by telephone.

9. Adjournment

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission resolved to adjourn at 12:15 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz