



State of New Jersey

RONALD DEFILIPPIS  
Chairman

WALTER F. TIMPONE  
Vice Chairman

AMOS C. SAUNDERS  
Commissioner

## ELECTION LAW ENFORCEMENT COMMISSION

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Compliance Director

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Legal Counsel

### PUBLIC SESSION MINUTES

May 21, 2013

Chairman DeFilippis, Vice Chairman Timpone, Commissioner Saunders, 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.

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 9, 2013

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 9, 2013.

#### 3. Approval of Public Session Minutes of April 18, 2013

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 18, 2013.

4. Executive Director's Report

A. Senate Appropriations Committee Meeting

Executive Director Brindle informed the Commissioners of his recent appearance before the Senate Appropriations Committee. He reported that he had been invited to speak, an occurrence that had not happened before. The Executive Director further reported that Senator Weinberg asked him to discuss the Commission's needs in the middle of the Treasurer's testimony. Executive Director Brindle informed the Senate Appropriations Committee of the Commission's need for computer upgrades, and indicated that such upgrades would cost approximately \$2 million.

The Executive Director stated that Senator Weinberg discussed the legislation proposed by Senator Beach, which would reform pay-to-play regulation, require disclosure by independent groups, require 48-hour reporting of contributions of \$3,000 and greater, and make electronic filing mandatory for all entities. He informed the Appropriations Committee that the Commission would require additional funds to administer the proposed law. He said that without additional funding the necessary software to facilitate electronic filing could not be developed. Therefore, that part of the law could not be enforced. Executive Director Brindle stated that no additional questions were asked of him.

Vice Chairman Timpone asked if there was any reaction to the \$2 million cost for computer upgrades.

The Executive Director replied that the Treasurer stated that he would take the comments concerning the Commission's computer needs under advisement. He noted that Senator Weinberg was supportive of the Commission's needs.

Executive Director Brindle reported that he informed the Appropriations Committee of past problems with the computer system to put them on notice of the situation.

B. Analytical Press Releases

The Executive Director informed the Commissioners of forthcoming analytical press releases. He reported that the Commission would issue an analytical press release relevant to the gubernatorial 29-day preelection report. Executive Director Brindle stated that the candidates had collectively raised \$8.2 million, with Governor Christie raising \$6.2 million and Senator Buono raising \$1.9 million.

The Executive Director stated that the analytical press release also involved legislative financial activity. He reported that \$22 million had been raised in total, with \$15 million to Democrats and \$7 million to Republicans.

Executive Director Brindle further informed the Commissioners of an analytical press release relevant to the "Big Six" legislative leadership and political party committees. He reported that Republicans had raised \$810,000 and Democrats \$653,000, for a total of \$1.4 million. The Executive Director noted that overall receipts were down 16 percent from 2009.

Executive Director Brindle informed the Commissioners of an analytical press release relevant to county political party committees. He reported that in the first quarter of 2013, Democrats had raised approximately \$550,000 and Republicans about \$400,000, for a total of just under \$1 million. The Executive Director noted that receipts were down 20 percent from 2009.

C. 40<sup>th</sup> Anniversary

Executive Director Brindle reported that the Commission will have a 40<sup>th</sup> anniversary celebration after next month's meeting. He indicated that David Norcross, the Commission's first Executive Director, would be in attendance, along with Bill Schluter, architect of the Reporting Act. The Executive Director noted that the Governor and Lieutenant Governor would not attend, and that he had not received word on whether the Attorney General would attend.

Vice Chairman Timpone asked if any former members of the Commission would be in attendance.

Executive Director Brindle replied that former Commissioner Albert Burstein would be present.

Chairman DeFilippis asked if members of the Legislature had been invited.

The Executive Director replied in the affirmative, but added that no members of the Legislature had confirmed that they would attend.

D. Discrimination in the Workplace Training

Executive Director Brindle informed the Commissioners that all staff had received training relevant to the state policy on discrimination in the workplace.

E. Summer Meeting Schedule

- June 18, 2013 at 11:00 a.m. in Trenton;
- July 16, 2013 at 11:00 a.m. in Trenton; and,
- August 20, 2013 at 11:00 a.m. in Trenton (if needed).

5. Report on 2013 Gubernatorial Public Financing Program

Compliance Director Amy Davis informed the Commissioners that Candidate Barbara Buono filed her fourth submission for 2013 primary election matching funds on April 9 containing \$69,540 in contributions. She stated that staff completed its review of Candidate Buono's fourth submission and issued public funds totaling \$102,526 on April 19.

The Compliance Director reported that Candidate Barbara Buono filed her fifth submission on April 23 containing \$72,066.00 in contributions. She noted that staff completed its review of Candidate Buono's submission and issued public funds totaling \$130,186 on April 26.

Director Davis stated that Candidate Barbara Buono filed her sixth submission on April 30 containing \$41,884.00 in contributions. She added that staff completed its review of Candidate Buono's and issued public funds totaling \$97,306 on May 3.

Compliance Director Davis informed the Commissioners that Candidate Barbara Buono filed her seventh submission on May 14 containing \$131,391.26 in contributions. She stated that staff completed its review of Candidate Buono's submission and issued public funds totaling \$229,879.48 on May 20.

The Compliance Director reported that to date, Candidate Buono has received public funds totaling \$1.3 million, and that staff will report to the Commission at its next meeting on June 18<sup>th</sup> on the status of any submissions received.

6. Request for Advisory Opinion 02-2013

The Commission received a request for an advisory opinion from Tom Mastrangelo, incumbent candidate for Morris County Freeholder in the 2013 primary election, concerning the statutory prohibition on solicitation and making of campaign contributions on public property. Mr. Mastrangelo asked the Commission to determine whether or not a campaign fundraiser held on public property falls within the statutory exemption, N.J.S.A. 19:44A-19.1d, from that prohibition.

Legal Director Carol Hoekje provided the legal background for the prohibition. She stated that the exemption covered property owned or leased by a public entity that is rented or made available for any group for a non-governmental purpose. She noted the legislative background and concerns for transparency and disclosure in the original legislation.

The Legal Director recommended that the intent of the law would allow for the use of public property proposed by Mr. Mastrangelo as long as it was rented for fair market value. She noted further that a campaign would disclose expenditures and contributions in connection with a fundraiser on its campaign reports. She noted that under these circumstances, an "uneven playing field" that the law addressed was not present.

Vice Chairman Timpone stated that he questioned what the term "reservation" meant under the conditions referenced in the exemption.

Commissioner Saunders replied that the intent of the law was that treatment of any candidate or committee soliciting funds on public property must be the same as any other member of the general public.

The Vice Chairman stated that he understood what "rent" meant in the response, but thought that "reservation" could prove confusing.

The Chairman expressed his belief that the exemption was applicable. He stated that a fee for a golf outing could be construed as "rent," but indicated that language to encompass other kinds of associated fees and services would be optimal.

Executive Director Brindle proposed adding the phrase, "rent and fees."

Vice Chairman Timpone expressed concern about reservations without fees.

The Chairman noted that some public facilities will permit use of their properties for free, citing the example of libraries that allow Republican and Democratic clubs to meet there.

Commissioner Saunders stated that the key was that the reservation be available to any group.

Chairman DeFilippis suggested that the Commission include the phrase, "and services" in its response to make it broader.

The Vice Chairman stated that he liked Commissioner Saunders' interpretation that candidates and committees soliciting funds on public property should be treated the same way as any other member of the public.

Commissioner Saunders asked if the Commission response should be broad or applicable only to a golf outing.

Legal Director Hoekje noted that the petitioners desired a broader response.

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, the Commission approved the Advisory Opinion to approve that the exemption would apply to campaign fundraising by pre-arrangement for reservation and rental, including related services, for the exclusive use of the campaign, provided that the reservations or fees are on the same terms as those offered to the general public.

7. Public Comments

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

8. Resolution to go into Executive Session

On a motion by Vice Chairman Timpone, seconded by Commissioner Saunders and passed by a vote of 3-0, 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

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 1:00 p.m.

Respectfully submitted as true  
and correct,

Jeffrey M. Brindle  
Executive Director

JMB/elz