



State of New Jersey

RONALD DEFILIPPIS
Chairman

STEPHEN M. HOLDEN
Commissioner

ERIC H. JASO
Commissioner

ELECTION LAW ENFORCEMENT COMMISSION

Respond to:
P.O. Box 185
Trenton, New Jersey 08625-0185

(609) 292-8700 or Toll Free Within NJ 1-888-313-ELEC (3532)

Website: <http://www.elec.state.nj.us/>

JEFFREY M. BRINDLE
Executive Director

JOSEPH W. DONOHUE
Deputy Director

DEMERY J. ROBERTS
Legal Director

STEPHANIE A. OLIVO
Compliance Director

EDWIN R. MATTHEWS
Legal Counsel

PUBLIC SESSION MINUTES

May 16, 2017

Chairman Ronald DeFilippis, Commissioner Stephen Holden, Commissioner Eric Jaso, Legal Counsel Edwin Matthews, Executive Director Jeffrey Brindle, Deputy Director Joseph Donohue, Legal Director Demery Roberts, Deputy Legal Director Amanda Haines and Director of Review and Investigation Shreve Marshall were present. Administrative Assistant Elbia Zeppetelli was also present for the purpose of recording the minutes.

The Public Session Minutes will be available online on 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. Executive Director Brindle 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 18, 2017

On a motion by Commissioner Jaso, seconded by Commissioner Holden, and passed by a vote of 3-0, the Commission approved the Public Session Minutes of April 18, 2017, as amended by Chairman DeFilippis.

3. Executive Director's Report

A. **New Employee** – Executive Director Brindle introduced Nichole DeFazio as the newest staff attorney. He said that she started two weeks ago, bringing the total number of attorneys in the Legal Section to ten.

- B. **County Party Analytical Press Release** – Executive Director Brindle mentioned that three analytical press releases were prepared by Deputy Director Joseph Donohue.

The Executive Director reported that the county party analytical report for the first quarter of this year raised \$1.2 million and spent \$1.2 million. He stated that on average they are raising less than 50 percent of what they did before 2005. He said that the trend line continues downward in terms of county party financing activity. The Executive Director said that county parties raised an average of \$2.6 million and spent \$1.3 million since 2005. He said that much of this year's fundraising is due to the gubernatorial candidates.

- C. **Gubernatorial Analytical Press Release** – Executive Director Brindle stated that candidates have raised \$28.1 million and spent \$23.3 million for the 2017 primary election. He reported that Democratic Candidate Murphy is responsible for the majority of the spending in that he has been largely self-financed. He raised \$19.2 million and spent \$18.4 million. The Executive Director noted that Republican Candidate Lt. Governor Guadagno has the most cash-on-hand at \$1.5 million. Executive Director Brindle reported that independent committees have already spent \$8.2 million. He indicated that independent groups thus far are spending slightly less than four years ago.

- D. **Legislative Analytical Press Release** – The Executive Director reported that legislative candidates have raised \$29.4 million and spent \$16.3 million, an increase over recent elections. The Executive Director suggested that much of this money derived from candidates rolling over money from previous elections.

- E. **Assembly and Senate Budget Hearings** – Executive Director Brindle reported that Assembly and Senate Budget Hearings were held and that no questions were asked of ELEC. He said ELEC's regular budget remains at \$4.51 million. The Executive Director stated that the Commission's budget also includes \$19.6 million for the Gubernatorial Public Financing Program. He said that approximately \$1 million is for administrative costs, including the ballot statement program. Executive Director Brindle said that he has been attempting to get the Legislature to eliminate the ballot statement program and to have statement placed on its website and the websites of the 21 county clerks. The Executive Director mentioned that a bill has been introduced to accomplish this change.

Chairman DeFilippis asked who is sponsoring the bill?

Executive Director Brindle responded that the sponsor of the bill is Senator Jim Whelan.

- F. **S1404/A4423 Weinberg, Johnson, Benson, Handlin** – The Executive Director announced that S1404/A4423, sponsored primarily by Senator Loretta Weinberg, requires Governmental Affairs Agents hired by local governments to disclose their activity. He stated that the Governor has signed the bill.

- G. **Michigan Proposed Legislation** – Executive Director Brindle spoke about a couple of nation-wide issues. He said that a Michigan proposed legislation would allow candidates to solicit money for independent groups.

Commissioner Jaso inquired as to the definition of an independent group.

The Executive Director responded that under IRS rules these organizations are classified as 501c groups or as 527's. He said they are groups that do not coordinate with candidates or parties and are not subject to limits on contributions as are candidates and parties.

- H. **Odd Contribution Restriction** – Executive Director Brindle reported that New Mexico's Secretary of State interpreted a New Mexico statute in a way that would disallow contributions from State level candidates to local candidates. He assumed that the Secretary of State understands such transfers as a way to circumvent contribution limits. He said this interpretation is different from New Jersey's law which limits contributions between candidates to \$8,200.
- I. **Move** – The Executive Director informed the Commission that all permits have been obtained and that construction on ELEC's new offices began Monday. He said that the Division of Property Management gave the project to architects Brachfeld, Regan, Young, England, Butera of Mt. Holly and Santorini Construction Inc. of Neptune. He indicated that ELEC was given a date for the move as November 6th, which happens to be election day. He said the actual move, therefore, barring any more delays will be in December.
- J. **Press Conference** – Executive Director Brindle informed the Commissioners that an invitation was sent to members of the Legislature and Governor's Office that supported the \$2 million appropriation to upgrade our system. Also, the press has been invited. The Executive Director mentioned that the press conference to unveil its new computer system and website is scheduled for May 25, 2017 at 10:30 a.m.
- K. **Gubernatorial Debates** – The Executive Director informed the Commissioners that the first Republican/Democratic primary gubernatorial debate was held on May 9th at Stockton University. He mentioned that Deputy Director Joseph Donohue, Compliance Director Stephanie Olivo, and Compliance Analyst Christopher Vigale attended the debate. The Executive Director said that the second Democratic debate was held on May 11th at NJTV in Newark and it was attended by Deputy Director Joseph Donohue, Compliance Director Stephanie Olivo, Compliance Analyst Christopher Vigale and himself. The Executive Director further mentioned that the third Republican debate is scheduled for May 18th at NJTV in Newark and the group will again attend on Thursday. Executive Director Brindle said that the NJTV debates seems to be well received. He said that Stockton too was well received.
- L. **Future Meetings Schedule**
- June 20, 2017 at 11:00 am in Trenton;
 - July 18, 2017 at 11:00 am in Trenton; and,
 - August 15, 2017 at 11:00 am in Trenton, if needed.

The Chairman thanked Executive Director for his report.

4. **Report on 2017 Gubernatorial Public Financing Program Disbursements**

Executive Director Brindle provided a summary of the gubernatorial public financing disbursements from April 18, 2017 to now.

The Executive Director stated that Democratic Candidate Jim Johnson received \$330,152 in public funds. His cumulative receipts total \$1,495,940.

Executive Director Brindle stated that Republican Candidate Lt. Governor Kimberly Guadagno received \$374,076 in public funds. She has received a total of \$1,538,454 in public funds.

Executive Director Brindle stated that Democratic Candidate Assemblyman John Wisniewski received a total of \$194,155 in public funds. His cumulative receipts total \$857,165 to date.

The Executive Director further stated that Republican Candidate Assemblyman Jack Ciattarelli received \$89,410 in public funds. So far, he has received \$740,046 in public funds.

Commissioner Jaso asked about the ballot statement and its cost.

Executive Director Brindle responded \$600,000 has been allocated for that purpose. He said that the county clerks send ELEC bills for the printing thereof and the Commission in turn reimburses the counties. Executive Director Brindle said that the Commission is recommending that the ballots be placed on ELEC's website and the county clerk's website.

5. Public Comments

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

Chairman DeFilippis read into the record the following Resolution Authorizing an Executive Session.

6. Resolution Authorizing an Executive Session

Whereas, there exists a need to hold an Executive Session for the purpose of discussing the following matter/matters, which fall within the exceptions to the Open Public Meetings Act, N.J.S.A. 10:4-12 et seq. to wit.

Matter/Matters (OPMA Exception)

- Approval of Executive Session Minutes for April 18, 2017;
- Discuss Legal Memorandum provided by Legal Counsel Matthews;
- Review Investigative Reports;
- Consider Final Decision recommendations;
- Consider Consent Order and Final Decision recommendation; and
- Pending Litigation.

Whereas, it is unknown at this time when such discussion to take place in Executive Session may be disclosed to the public.

Now Therefore Be It Resolved by the Election Law Enforcement Commission as follows:

1. This Executive Session Meeting of the Election Law Enforcement Commission shall be closed to the public for discussion of the aforesaid referenced matters.

2. The matters discussed during this Executive Session Meeting shall be disclosed to the public at such time when reason for discussing and acting on same in Executive Session shall no longer exist.

On a motion by Commissioner Holden, seconded by Commissioner Jaso, and passed by a vote of 3-0, the Commission resolved to enter 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. 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

7. Investigative Reports

On a motion by Commissioner Jaso, seconded by Commissioner Holden, and passed by a vote of 3-0, the Commission approved the Investigative Reports, as recommended by staff.

8. Final Decision Recommendations

On a motion by Commissioner Jaso, seconded by Commissioner Holden, and passed by a vote of 3-0, the Commission approved the Final Decision Recommendations, items 1 through 4, as recommended by staff.

9. Consent Order and Final Decision Recommendation

On a motion by Commissioner Holden, seconded by Commissioner Jaso, and passed by a vote of 3-0, the Commission approved the Consent Order and Final Decision Recommendation in item 1.

10. Advisory Opinion 02-2017

Legal Director Roberts said that an Advisory Opinion Request was received from Rajiv D. Parikh of Genova Burns and they represent the New Jersey Democratic State Committee (the NJDSC).

Legal Director Roberts said that the Commission was asked two questions.

1. May the candidate committees of one or more Democratic gubernatorial candidates in the 2017 gubernatorial primary election and the candidate committee of the eventual Democratic nominee in the 2017 gubernatorial general election participate in a joint fundraising effort with the NJDSC's New Jersey account and the NJDSC's federal account subject to the principles and procedures set forth in Advisory Opinion 01-1996?
2. Are proceeds from this joint fundraising effort allocable to the applicable gubernatorial campaign committee eligible for qualification and match, if that gubernatorial candidate intends to participate in the gubernatorial public financing program?

The Commission advised that the Campaign Act and Commission regulations do not permit the formation of a joint fundraising committee (JFC), consisting of the NJDSC's state and federal accounts and the candidate committees of the gubernatorial candidates, or a joint depository shared by more than one reporting entity. The Commission further advised that as the Campaign Act and Commission regulations do not provide for a JFC or a joint depository, the question of whether funds raised by the JFC are eligible for matching public funds under the Program is moot.

On a motion by Commissioner Jaso, seconded by Commissioner Holden, and passed by a vote of 3-0, the Commission approved the Advisory Opinion 02-2017, as presented by counsel.

11. Public Comments

Chairman DeFilippis asked if any members of the public wished to comment. Seeing none, he asked for a motion to adjourn.

12. Adjournment

On a motion by Commissioner Holden, seconded by Commissioner Jaso, and passed by a vote of 3-0, the Commission resolved to adjourn at 2:00 p.m.

Respectfully submitted as true
and correct,

Jeffrey M. Brindle
Executive Director

JMB/elz