



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

JERRY FITZGERALD ENGLISH
Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

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Deputy Director

NEDDA G. MASSAR
Legal Director

EVELYN FORD
Compliance Director

JAMES P. WYSE
Legal Counsel

PUBLIC SESSION MINUTES

March 20, 2007

Chair English, Vice Chair Tober, Commissioner Burstein, Counsel Wyse, and Senior Staff were present.

1. Open Public Meetings Statement

Chair English 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 10:15 a.m. in Trenton.

2. Approval of Public Session Minutes of March 6, 2007

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission approved the Public Session Minutes of March 6, 2007.

3. Executive Director's Report

A. Staff Activities

Executive Director Herrmann reported that on February 1, 2007, he led a national conference call of the Council on Governmental Ethics Laws (COGEL) Publications Committee which he chairs. He stated that the committee established a publication schedule for the Guardian, COGEL's electronic ethics bulletin for 2007, and also planned the content of this year's issues. The Executive Director noted that he also informed the committee that he would be putting together the Seventh Edition of the COGEL Campaign Financing & Lobbying Bibliography later this year.

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According to Executive Director Herrmann, on February 13, 2007, he spoke to a class from Professor John Weigart's Eagleton Institute Undergraduates Associates Program at Rutgers University. As part of the program, he described his governmental career and the work of the Commission. The Executive Director added that also speaking were William Harla, a lobbyist, and Lysa Israel, a professional campaign fundraiser. Executive Director Herrmann advised the Commission that both of them had very kind words of praise for Compliance Director Evelyn Ford and her staff.

The Executive Director mentioned that on February 13, 2007, Associate Compliance Officer Nancy Fitzpatrick was a speaker at the Christine Todd Whitman Lecture Series for Women in Government. Executive Director Herrmann noted that she addressed the group on ELEC's role in administering the Campaign Financing Act. He added that ELEC's staff members have been regular speakers at this series for many years.

The Executive Director reported that on February 23, 2007, Director of Special Programs Amy Davis was a speaker at a symposium on Ethics in Government. Executive Director Herrmann indicated that the theme of the event sponsored by the Monmouth County Prosecutor was maintaining honest accountable government at the municipal, county, and State levels. According to the Executive Director, Director Davis provided an overview of the information available and searchable on the ELEC website and discussed the new pay-to-play laws.

Executive Director Herrmann informed the Commission that on February 24, 2007, Legal Director Massar attended the COGEL Program Committee Meeting in Victoria, BC. He said that in her role as COGEL President, she met with the committee to plan this September's conference.

The Executive Director noted that two members of the ELEC staff, along with representatives from the Office of the Attorney General (OAG), are participating in a program entitled "Ethical Issues Facing Elected Officials." Executive Director Herrmann stated that the program is being offered as a course on two dates (April 21 and May 19, 2007) as part of the Municipal Elected Officials Certificate Program administered by the Edward J. Bloustein School of Planning and Public Policy at Rutgers University. The Executive Director advised the Commission that Legal Director Massar and Assistant Compliance Officer Danielle Hacker will discuss contributions and expenditure reporting requirements for candidates.

B. Lobbying Disclosure

Executive Director Herrmann announced that the Information Technology staff has added "Quarterly Filing Fill-In Forms" to the website for lobbyists. He noted that they now can "type in" their filing information onto an online form which has to be mailed to the Commission. Executive Director Herrmann said that this new procedure is a big step in the direction of eventual electronic filing for lobbyists, which the staff is continuing to develop. The Executive Director mentioned that

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Director Carol Neiman and her staff continue to do outstanding work in the information technology area.

Executive Director Herrmann informed the Commission that on March 8, 2007, the Compliance Division released figures to the media on lobbying data for 2006, which demonstrated that there was a 90 percent increase in the amounts expended from the previous year. He said that in 2006, \$54.9 million was spent compared with \$28.9 million in 2005. Executive Director Herrmann added that the number of lobbyists increased to about 1,000 in 2006 from about 600 in 2005 and that benefit passing in 2006 increased slightly over 2005, with \$45,500 spent in 2006 and \$43,300 spent in 2005. Executive Director Herrmann advised the Commission that the larger numbers in 2006 were due to the 2004 change in the law that added the reporting of governmental process lobbying and grassroots lobbying to lobbying on legislation and regulations. He said that according to the Center for Public Integrity, this additional disclosure moved New Jersey from tenth to fourth place nationally in reported lobbying expenditures. Executive Director Herrmann indicated that the Center said New Jersey is now in the vanguard of states in terms of lobbying disclosure.

The Executive Director noted that Compliance Director Ford and her staff did an outstanding job in putting together a massive amount of data in a very short period of time for the media and public.

C. State Ethics Commission Filing Update

Executive Director Herrmann explained that the Attorney General has asked that Commissioners and staff file their Financial Disclosure Statement forms with the State Ethics Commission by May 1, 2007, instead of May 15, 2007, and that he has also requested that Barbara Haley be notified by email that the statement has been filed with the State Ethics Commission and the date on which the filing occurred. Her email address is: Barbara.Haley@lps.state.nj.us.

D. Budget News

According to Executive Director Herrmann the Governor's recommended FY-2008 Operating Budget for ELEC is \$4.8 million. The Executive Director indicated that the Governor restored \$100,000 that was assessed from last year's budget and that the Commission also has been recommended to receive \$925,000 for the administration of the 2007 Clean Elections Pilot Project. The Clean Elections funding includes:

- \$250,000 for administration;
- \$600,000 for publicity, and,
- \$75,000 for ballot statements.

The Executive Director mentioned that in addition, the Department of the Treasury has been recommended to receive \$6.75 million for public fund payments to Clean Elections Senate and Assembly candidates in the three selected districts.

E. Clean Elections Update

Executive Director Herrmann advised the Commission that on March 15, 2007, A-100 (Roberts *et al.*) passed the Senate by a vote of 23-7 and the General Assembly by a vote of 58-18. He stated that staff has been working on implementation of the Clean Elections Program for months in anticipation of its enactment. The Executive Director informed the Commission that forms, instructions, training materials, electronic filing software, publicity vendor selection activities, and other preparations are well underway. He promised that staff will have regulations ready for Commission consideration at the next meeting.

F. Spring Meeting Schedule

- April 20, 2007 at 2:00 p.m. in Trenton;
- May 15, 2007 at 10:00 a.m. in Trenton; and,
- June 19, 2007 at 11:00 a.m. in Trenton.

Chair English asked several questions regarding the Clean Elections Program, demonstrating her concern for the success of the program. Chair English asked whether or not certain problems that plagued the previous program have been addressed in the new pilot program.

Executive Director Herrmann stated that the current program will allow for a longer period of time to raise money and provides \$600,000 for publicity.

Chair English thanked staff for being prescient in planning ahead for the implementation of the program.

4. Public Hearing on Proposed Amendments to Commission Rules Concerning Lobbying

Chair English announced that a public hearing was being conducted to elicit public comment on proposed amendments to Commission regulations at Subchapter 20, Lobbyists and Governmental Affairs Agents, N.J.A.C. 19:25-20. The proposed amendments are intended to clarify regulations to implement lobbying reporting requirements which were enacted as a result of changes made in 2004 to the Legislative and Governmental Process Activities Act, N.J.S.A. 52:13C-18 *et seq.* Among other provisions, the proposed amendments provide a definition for the “administrative proceeding” exemption from lobbying reporting requirements, clarify that the term “member” can mean an organization as well as an individual, and clarify recordkeeping requirements for persons who undertake communications with the general public.

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Paul Josephson, Esq., and John Spinello, Esq., representing the New Jersey State Bar Association, offered testimony.

A court reporter was available to record the proceedings. The transcript will be available to the public for inspection upon request.

5. Public Comment

Sandy Matsen, League of Women Voters, and Marilyn Carpinteyro, New Jersey Citizen Action, stated that they would like to see a draft of the rules for the Clean Elections Pilot Project ahead of the April Commission meeting when they are discussed for introduction. The groups are planning seminars to educate the public and candidates about the program.

Ingrid Reed, Eagleton Institute of Politics, asked the Commission to post the draft rules on the Internet prior to introduction.

Chair English stated that the groups would be welcome to make suggestions as to the rules and empowered Vice Chair Tober to make a decision the week of the next meeting as to whether or not the proposed regulations would be made available for early public consumption. The Chair will be out of the country until shortly before the meeting.

Legal Director Massar stated that copies could be provided to the public after the Commission discussion and possible changes on the morning of the meeting to allow for citizens to read and respond to the regulations.

5. Resolution to go into Executive Session

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

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7. Adjournment

On a motion by Commissioner Burstein, seconded by Vice Chair Tober and passed by a vote of 3-0, the Commission voted to adjourn at 12:30 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz