



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

JERRY FITZGERALD ENGLISH
Chair

PETER J. TOBER
Vice Chair

ALBERT BURSTEIN
Commissioner

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/>

FREDERICK M. HERRMANN, Ph.D.
Executive Director

JEFFREY M. BRINDLE
Deputy Director

NEDDA G. MASSAR
Legal Director

EVELYN FORD
Compliance Director

JAMES P. WYSE
Legal Counsel

PUBLIC SESSION MINUTES

May 15, 2007

Chair English, Vice Chair Tober, Commissioner Burstein, Counsel Wyse, and Senior Staff, except Deputy Director Brindle, 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 11:00 a.m. in Trenton.

2. Approval of Public Session Minutes

Chair English asked that the draft minutes of April 20, 2007 be amended to read that the Commission wished Governor Corzine a thorough and efficient recovery. Commissioner Burstein requested that the minutes be amended to reflect that the Commission included a prohibition against participation in a joint candidates committee and to add a definition of "rescue money" to the Clean Elections special adoption text.

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 April 20, 2007, as amended.

3. Executive Director's Report

A. Budget Update

Executive Director Herrmann reported that on April 30, 2007, Deputy Director Brindle, Director of Finance and Administration Gary Alpert, and he attended the Senate Budget and Appropriations Committee. Executive Director Herrmann stated that ELEC's \$4.8 million dollar budget is on track for the upcoming

fiscal year. He further stated that he spoke with Senator Bob Littell about ELEC's website and that the Senator, who had been an early supporter of computerization at ELEC, was very pleased with the Commission's progress in this area.

B. National News

Executive Director Herrmann informed the Commission that the United States Supreme Court is expected to rule in the "Wisconsin Right to Life" case this summer. He stated that a lower court decided that a grassroots lobbying campaign is exempt from the McCain-Feingold restrictions on issue ads shortly before an election. The Executive Director mentioned that this United States Supreme Court ruling could impact future efforts in New Jersey to regulate issue ads. He opined, however, that ELEC's regulation may well be a model when addressing issue ads.

C. Staff Activities

Executive Director Herrmann mentioned that on April 18, 2007, Deputy Director Brindle taught a political science class at Rutgers University for Professor Dan Weissman. Mr. Brindle lectured on scandal and reform relating the topic to the work of the Commission.

On April 26 and April 27, 2007, Legal Director Massar attended a Steering Committee meeting of the Council on Governmental Ethics Laws (COGEL) in Chicago. As this year's president, she led this very important business session. ELEC is a charter member of COGEL, and ELEC's Commissioners and staff have been very active in this international ethics organization over the years.

On April 27, 2007, Director Alpert attended a symposium in Trenton entitled "Government Efficiencies: Retooling for Tomorrow." The program was sponsored by the Association of Government Accountants, Trenton Chapter, and the American Society for Public Administration, New Jersey Chapter. Numerous speakers from government, academics, and the media served as panelists.

Executive Director Herrmann reported that the Compliance Division has now trained 717 treasurers and registered 1,020 lobbyists.

D. Computer Improvements

Executive Director Herrmann continued his report by providing information on computer improvements. He stated that:

- Lobbyist Notices of Representation, Notices of Terminations, and Quarterly Reports are now available on the website as "fill-in" forms. Staff will no longer have to mail out these forms and their instructions to filers. This new system brings the Commission a step closer to its goal of electronic filing for lobbyists.

Public Session Minutes

May 15, 2007

Page 3

- Mandated electronic filing for legislative candidates spending over \$100,000 will be in place for the General Election. Associate Compliance Officer Nancy Fitzpatrick will be heading a three-member team to administer this new program. The team held training sessions on March 19, March 30, and April 5, 2007.
- The Compliance Division has created a “one-stop shopping” link for both Legislative and local candidates participating in the Primary Election. Once the link is accessed, everything a candidate needs to file is outlined and available. The Special Programs and Information Technology sections have completed their work on electronic filing for the 2007 Fair and Clean Elections Pilot Project. Working under intense pressure due to a very short deadline for completion, the staffs of both sections did a magnificent job in preparing an electronic environment for candidates to enable them to comply with the program’s unique and extensive disclosure requirements.
- On April 30, 2007, the Information Technology section activated two important additions to the website: an email news release subscription service, which will now keep the media, public, and interested parties informed of important ELEC activities; and, a revised and upgraded pay-to-play page that includes the new electronic filing form and instructions for the reporting of business entity annual activity and an updated pay-to-play power-point presentation.

E. Summer Meeting Schedule

Executive Director Herrmann reviewed the Commission’s summer meeting schedule as follows:

- June 19, 2007 at 11:00 a.m. in Trenton;
- July 17, 2007 at 11:00 a.m. in Trenton; and,
- August 14, 2007 (if needed).

The Commissioners discussed the format of and their experiences in attending the Ethics Training Program required by the State Ethics Commission.

Chair English discussed the debates for Presidential, Gubernatorial, and Clean Elections candidates. She recounted a newspaper article addressing the upcoming presidential election debates wherein candidates appear for 20-minute segments and discuss issues one-on-one. Chair English noted that there are many different approaches and formats when structuring public debates, and the Commission should consider all of these formats in the future.

Chair English recognized Ingrid Reed, Director of the Eagleton New Jersey Project. Ms. Reed commented that her Intern will be working on this very topic this summer by collecting information on how debates are formatted not only at the national level but in the

various states. She opined that there are three issues of concern: format, funding, and the workings of the media. Regarding the media, Ms. Reed commented that, in the New Jersey gubernatorial candidates' debates, each debate is assigned to one carrier, and that collaboration among the media is lacking. She pointed out that a media pool is used in the Presidential debates and that, in Virginia, the Broadcasters Association sponsors debates, resulting in the media's own organization overseeing difficult formatting decisions. In New Jersey, Ms. Reed thought that a mechanism is needed to coordinate the media coverage. For example, Ms. Reed noted that cable television has become extremely effective in reaching the electorate, and that some thought should be given as to how to engage the cable television industry in the debates. She suggested that a collaborative "round table" discussion with candidates, the media, and others may bring about improved methods of communicating during the election. Ms. Reed thought that a great deal of public money is being awarded to the Clean Elections Program, but little is spent to fund the debate process.

Ms. Reed commented that the law in New Jersey does not address the formatting of the debates, or even whether or not the debates should be televised. Ms. Reed said that campaigns view each debate with campaign strategy in mind and this mindset may create resistance to certain formats. Ms. Reed said that she believed that it was the experience of the League of Women Voters that coming to an agreement among the candidates on format and style as well as topics of discussion is exceedingly difficult.

Chair English suggested that ELEC could consider having a convocation concerning candidates' debates, and Ms. Reed expressed agreement to assist with this task.

4. 2007 Fair and Clean Elections Pilot Program Report

Chair English recognized the Director of Special Programs, Amy Davis. Ms. Davis provided the following update on the 2007 Fair and Clean Elections Pilot Project:

Participating Candidates/Training/Website:

- To date, ELEC has received filings from 12 candidates representing all three districts who have declared their intent to participate as Clean Elections candidates in the 2007 General Election. None of the participating candidates has submitted a report indicating they have received the required minimum of 400 contributions to become certified. Beginning on May 23rd and continuing on a weekly basis, all participating candidates must submit a report indicating the number of qualifying contributions they have received.
- In April, the Special Programs staff held two large training sessions and had 28 individuals attend, including candidates, treasurers, campaign workers, partisan staff, and representatives from good government groups. Additional training sessions will be held on May 15th and June 11th. In addition, staff will meet with campaigns and interested individuals upon request. The Special Programs staff has also provided training on the Clean Elections Electronic Filing Software and distributed the software to 14 campaigns.

Public Session Minutes

May 15, 2007

Page 5

- The Special Programs staff has continued to frequently update the Commission's Clean Elections webpage to provide the most current information in one central location. Recently, the Clean Elections regulations were added, along with a list of participating candidates in each district. A search button is conveniently located on the page so users may search for reports filed by candidates.

Advertising:

- The bidding and selection process through the Department of Treasury was completed. Winning Edge Communications was hired to develop and execute the 2007 Clean Elections Advertising Campaign to inform voters concerning the Clean Elections Program.
- Winning Edge is a New Jersey firm with over 25 years of experience designing ads and placing media for state agencies and private entities. Staff met with the advertising team assigned to the project and was very impressed with their level of professionalism and creativity. Staff is excited to announce that an informational brochure will be completed within the next few days and will be placed on ELEC's website.
- The brochure may be downloaded and printed by any candidate or other interested party who would like to utilize it as a tool to increase awareness of the Clean Elections Program. The brochure will also be mailed to every registered voter in each of the three participating districts.
- In the near future and throughout the qualification period that runs through September 30th, there will also be advertisements placed on cable television, radio, newspapers, websites, and on supermarket check-out videos. There will also be a kiosk strategically placed in libraries within the Clean Elections districts that will be used to display and distribute information.

Director Davis reported that she will continue to provide monthly status reports to the Commission on the progress of the 2007 Fair and Clean Elections Pilot Program as additional information becomes available.

The following persons were recognized by the Chair and offered comments on the 2007 Fair and Clean Elections Pilot Program:

- Ingrid Reed, Eagleton New Jersey Project;
- Sandy Matsen, League of Women Voters of New Jersey;
- Marilyn Carpenteyro, New Jersey Citizen Action; and,
- Frank Dominguez, Assembly Minority Office.

Marilyn Carpenteyro asked Director Davis to provide information concerning the specific details of the media plan of Winning Edge Strategies (hereinafter referred to as the "vendor").

Public Session Minutes

May 15, 2007

Page 6

Director Davis indicated that the specifics were necessarily fluid and subject to change as the media plan evolved with the needs of the Pilot Project.

Executive Director Herrmann advised Ms. Carpenteyro that an update on the details of the media plan would be discussed at every Commission meeting, and that staff would be available to take telephone inquiries regarding the progress of the media plan.

Ms. Carpenteyro asked Director Davis if there was a website for Clean Elections other than that found on ELEC's website.

Ms. Davis indicated staff was awaiting approval from the State's Office of Information Technology to register a domain name. This domain name would link seamlessly to ELEC's website.

Ms. Reed commented that the website of the State of New Jersey presented issues that needed addressing. She recalled that the website had a topical index, but that "Clean Elections" was not listed as a topic. Ms. Reed explained that if a citizen logged on to the State of New Jersey's homepage, it would be difficult to easily access Clean Elections. She asked staff to contact the person who regulates the State's homepage to ask if "Clean Elections" could be placed in the topical index. Ms. Reed complimented the ELEC website which contained very good information on Clean Elections.

Sandy Matsen asked how the League of Women Voters would be able to determine if the Clean Elections candidates needed help raising money so that they could adjust some of their organization's public relations campaign accordingly.

Ms. Reed agreed that it was important to know what they at Eagleton could do to help candidates declare themselves as Clean Elections candidates.

Director Davis indicated that information would be available on the Commission's website in a timely manner.

The Chair acknowledged Frank Dominguez from the New Jersey Assembly Minority Office, and asked him about the interests of partisan staff.

Mr. Dominguez indicated that now that the candidates have begun their campaigns, his participation as a member of partisan staff ceases.

The Chair asked Ms. Carpenteyro if the candidates were reaching out to the advocacy groups.

Ms. Carpenteyro indicated that New Jersey Citizen Action was reaching out to the candidates to help them understand the fundamentals of the program and also to explain to them what it means to be "Clean." Ms. Carpenteyro asked if they would be able to be in contact with the vendor.

Public Session Minutes

May 15, 2007

Page 7

Executive Director Herrmann explained that the Commission has a contractual relationship with the vendor and has the responsibility to serve as the Project Manager and that the vendor would not be communicating with anyone other than the Commission. He indicated that the Commission's role is to provide information concerning the provisions of the Clean Elections Program and to manage the paid media advertising, whereas the role of the advocacy groups is to advocate for the success of the Program.

Legal Director Massar explained that the process of engaging a vendor had been conducted on an expedited basis, as provided in the Clean Elections Act. She stated that approval from the Department of Treasury to hire the vendor had occurred as recently as the prior week and that the meeting with the vendor occurred on Friday, May 11, 2007. Ms. Massar emphasized that the entire advertising plan will be a flexible process requiring close, sometimes daily, communication with the vendor as the marketing campaign proceeds. At the present time, the vendor is working on a brochure that will be mailed to every registered voter.

Executive Director Herrmann again stated that staff will work closely with the advocacy groups and will respond to them with the details of the educational campaign as it unfolds.

Chair English asked staff if a copy of the contract could be provided to the Commissioners for their records. Legal Director Massar responded that a copy of the contract would be provided.

Chair English stated that this phase is round one and that the Commission staff will be moving smart and fast. She emphasized that the Commission needed to be in charge of the project as it proceeds. Chair English reminded everyone that the Commissioners and staff would welcome feedback from the advocacy groups and also from the candidates who are participating in the Clean Elections Program. She further stated that candidates became the educators in the prior pilot program and she hoped that the candidates participating in the 2007 Program would similarly make the Commission aware of their issues.

Ms. Reed informed the Commission of initiatives that Eagleton would implement, such as posting on its New Jersey Voter website all information that is published by the vendor. She further stated that Eagleton planned to conduct two surveys to determine voter awareness of the Clean Elections Program. She explained that the first survey will be conducted in September and the second in October. Further, Ms. Reed said that additional surveys would be conducted in the Clean Elections districts. Ms. Reed also informed the Commission that she has requested that all Clean candidates save the campaign literature they used during the election and submit the literature to her at the end of the election. Ms. Reed stated that, by reviewing this literature, a full picture of how the candidates characterized themselves would emerge. Ms. Reed stated that Eagleton would be monitoring newspaper coverage, especially the weekly newspapers in the local towns within the Clean districts. Ms. Reed stated that the weekly newspapers were the most frequently read publications in New Jersey and played a very important part in the advertising process.

Public Session Minutes

May 15, 2007

Page 8

Chair English thanked the participants for their comments and asked for a motion to proceed to Executive Session.

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.
- C. A report on requests from the public for investigations of possible violations, which report 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.

6. 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 1:30 p.m.

Respectfully submitted,

Frederick M. Herrmann, Ph.D.
Executive Director

FMH/elz