

**Report
and
Recommendations
of the

STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

on

LAKEWOOD INDUSTRIAL COMMISSION**

INVESTIGATION OF ALLEGATIONS
AGAINST LAKEWOOD TOWNSHIP
INDUSTRIAL COMMISSION



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TO THE GOVERNOR AND THE LEGISLATURE

The State Commission of Investigation (SCI) examined a number of citizen complaints alleging various irregularities in the operation of the Lakewood Industrial Commission. The SCI undertook this inquiry not only to assess the validity of the allegations but also to determine whether the statute governing the creation and operation of municipal industrial commissions -- N.J.S.A. 40:55B-1 et seq. -- should be strengthened.

As stated in the report, the SCI's investigation revealed no evidence of criminal or corrupt activities by the Lakewood commission but did confirm "certain inappropriate actions or omissions in the conduct of the Commission." These are the basis for SCI proposals to revise N.J.S.A. 40:55B-1 et seq. to require:

1. That all municipal industrial commissions be structured and operate on a bipartisan basis.
2. That all policy, financial and other decisions and transactions be a matter of public record open and available to public inspection at all times within the business hours of a municipality.
3. That all members and prospective members of industrial commissions make a public disclosure of all sources of personal income and all personal real estate holdings.

Beginning on P. 14, the SCI lists its proposed revisions of the Industrial Commission Act and urges their consideration by the Governor and the Legislature in order to achieve the above-cited statutory objectives.

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INVESTIGATION OF ALLEGATIONS
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INDUSTRIAL COMMISSION

INTRODUCTION

The Lakewood Township Industrial Commission is a semi-autonomous municipal entity organized in 1960 pursuant to N.J.S.A. 40:55B-1 et seq. Basically, the purpose of an industrial commission is to generate local employment and tax ratables. The acquisition and sale of land as a location for industry and mandated local tax structure studies are the most important statutory functions of such a commission.

After evaluating a series of allegations against the Lakewood Industrial Commission, the State Commission of Investigation in February, 1981, adopted a resolution authorizing a formal investigation of the charges. The commissioners of the SCI directed that the inquiry determine "whether the laws of the State of New Jersey are being faithfully executed and effectively enforced with particular reference to the staffing, funding, operations and expenditures" of municipal and regional authorities and commissions and whether present laws and regulations governing such entities "are adequate." The complainants were Jessie Friedlander, William Saltzman and Alva Harris, all of Lakewood.

The SCI's inquiry began with an audit of available records of the Lakewood Industrial Commission that appeared to relate to the accusations. Files of the Industrial Commission from 1975 to 1979 were obtained from its Counsel,* John Briscoe. These files included meeting minutes, bank statements, checks, books and records, CPA reports and documents, annual reports, budget requests and appropriations, consultant contracts and special projects and payment vouchers. At various times, specific documents for various periods dating back to 1969 were supplied by the Industrial Commission. The members and employees of the Industrial Commission were cooperative. Two of the complainants -- Friedlander and Saltzman -- were interviewed on three occasions and one or more interviews were conducted with the following, among others:

George W. Hullen, Community Development Representative, State Division of Economic Development; Norman Smith, presently an Administrative Judge, former attorney to the Industrial Commission; Kenneth A. Matthews, present member and former Director of the Industrial Commission; Robert Elliot and Ron Vogel, partners of the CPA firm of Mohel,

*Joseph W. Ferraro, Jr. succeeded Briscoe as Counsel on January 1, 1982.

Vogel and Elliot, auditors for the Industrial Commission; Robert Young, Executive Director of the Commission; Thomas L. LaPointe, Township Business Manager, and Briscoe.

The SCI team assigned to the inquiry -- a lawyer, an accountant and a special agent -- also undertook other investigative actions. An interview was conducted of Rosalie Cooper, acquisition and foreclosure attorney for the Township and who was, until December 31, 1981, a part-time Ocean County Assistant Prosecutor. The files of the late James Jeck, predecessor of Briscoe as counsel, were searched. A search of deed records at the Ocean County Clerk's Office was conducted. The records of the Ocean County Prosecutor's Office were checked regarding previous complaints or reports affecting the Industrial Commission and its members. Banking records were subpoenaed.

Findings, In Brief

Upon completion of the inquiry in March, 1982, the Commissioners of the SCI agreed that certain of the investigative findings illustrated inadequacies in the statute which prescribes the structure and regulates the operations of all municipal industrial commissions. The SCI's Conclusions and Recommendations are listed in detail beginning at P. 14 of this report. Because the SCI proposals for statutory reforms concern not only Lakewood's Industrial Commission but all other similar entities throughout the state, this report warranted more than local attention. For that reason, copies have been submitted to the Governor, the Legislature and the media as well as to the individual complainants, the Industrial Commission and the governing officials of Lakewood.

It should be stated at the outset that the SCI's investigation produced no evidence of activities of a criminal nature or of past or present official corruption by the Lakewood Industrial Commission and its officers and employees. The complaints served an important public service in that they triggered an inquiry which revealed a number of imperfections in the Industrial Commission's practices and procedures which can and should be corrected. However, none of these imperfections rose to the harsh level of the overall accusations.

THE INVESTIGATION

The complainants' allegations were filed with the SCI in the form of a summary letter with an attachment that listed each charge in detail. This letter and attachment can be found in the appendices section of the report. In addition, the complainants made further accusations during the course of the probe that the SCI also investigated. This section of the report will cite the essential excerpt from each original allegation (with a reference to the full complaint in the appendices), followed by the SCI's investigative findings with respect to each citation, as follows:

1. "No record of having received hundreds of thousands of dollars from the Township of Lakewood, which appears in the township's annual budget; no accountings for what was done with these funds; no records of the Commission's expenditures or operating expenses." (See appendices, P. A-2).

The accounting methods of the Industrial Commission were determined and records examined. The records included vouchers submitted to the Township as withdrawals against Township monies budgeted for the Industrial Commission. A sampling of the vouchers submitted, when cross-checked against the ledgers of the Commission, showed the Commission's records of its draw against the appropriated monies to be accurate. Any audit of just the Industrial Commission would not reflect the use of these funds; rather, the budget of the Township must also be examined.

2. "Apparent conflicts of interest in employment as well as in investments and bank accounts." (See P. A-3).

Certificates of deposit were purchased by the Industrial Commission at a bank in which it was alleged that H. George Buckwald had an interest. There was no conflict as defined by the statute. Buckwald was a township committeeman and not a "member, officer, or employee" of the Commission at the time. Even assuming that Buckwald had an interest, the records of the Commission show that since it first began investing in certificates of deposit in the early 1970s, such certificates were obtained only after the submission of bids by several banks.

The complainants allege that a certificate of deposit was purchased for 7.11 percent per annum when it could have been purchased at another bank for a higher interest rate. The records of the Industrial Commission indicate that the monies which went into the purchase of the 7.11 percent CD were derived from an earlier certificate of deposit at Jersey Shore Savings and Loan Association for 6.5 percent per annum which became due in November, 1977. The monies were not available to purchase the new CD until after the expiration of the 6.5 percent CD. There is no indication that a higher interest rate could have been obtained.

The complainants allege that Kenneth Matthews, a former Executive Director of the Industrial Commission, received a position with Excel Wood Products Co., Inc., in return for negotiating in 1972 a land sale from the Industrial Commission to Excel Wood. They also allege that he held a position on the Industrial Commission while being employed by Excel Wood. Matthews left positions at the Chamber of Commerce and the Industrial Commission by September of 1973. He took a short vacation and started his current position at Excel Wood in November of 1973 with a starting salary of \$18,000 a year. He was again appointed to the Industrial Commission in 1974. The SCI found no evidence linking the receipt

of his position at Excel Wood with any actions he took while Executive Director.

The complainants cite without providing specifics a land-swap deal involving Roseland Estates as being improper. This swap was made between Roseland Estates and the Township and did not involve the Industrial Commission. Without more of a showing, the decision of the Township is beyond the scope of this investigation.

3. "Violation of the enabling law (40:55B) in the appointment of members of the Commission as well as in the Commission's make-up." (See P. A-4).

The composition of the Lakewood Industrial Commission, as of March 22, 1982, was:

Marshall Sussna, Commission Chairman and President of Leveline, Inc., a millwork company;

Henry Mayer, Vice-Chairman, also Executive of Jersey Central Power and Light;

Jack Weintraub, Secretary, also General Manager of M.C.I. Plastics;

Matthews, Commission member, Director of Personnel, Excel Wood;

Ronald Vogel, Commission member, also an accountant with the firm of Mohel, Vogel, and Elliot;

Wade Hancock, Commission member, also salesman for Family Dodge and a member of the Lakewood Chamber of Commerce;

Bertram Landers, Commission member and an optometrist;

H. George Buckwald, ex-officio member as Mayor of Lakewood, and an Ocean County Freeholder.

Former Counsel Briscoe said the Township has been unable to comply with the Industrial Commission statute's requirements that appointees shall, "unless local conditions otherwise require," include at least one representative each of the milling industry, labor, banking, local business and service groups, real estate dealers and the legal profession. A case in point in this area is Kohler v. Barnes, 123 N.J. Super. 69, Law Division, 1973. The Court found that, where not all seven statutorily suggested categories of expertise were represented on a Commission, the township was primarily rural and there was no showing that any

representative of the missing categories was available, it was not an abuse of discretion by the Mayor to appoint others. The Court, in its ruling, also strongly suggested that the wording of the statute regarding the composition of the Industrial Commission is directory and not mandatory, i.e. that it is not a per se violation of the statute if those categories are not chosen. However, the SCI has been informed that the practice of the Township Committee members is to select candidates for a position on the Industrial Commission who are personally known to them. The statute requires Commission appointments to be made by the mayor.

By statute, the mayor is an ex officio member of the Industrial Commission. All Commission appointments made by the "mayor" are for a term of five years, according to N.J.S.A. 40:55B-5. The complainants allege impropriety in the appointment of Matthews to the Commission while he was the mayor.

Whether or not this was improper turns on statutory interpretation as it relates to the governmental structure of Lakewood. Lakewood is governed by an elected Township Committee. After their election, the committeemen determine, among themselves, who will hold the position of mayor for a one-year period. The mayor is merely a member of the committee with the formal power to preside and to execute documents on behalf of the Township. As noted, the Township Committee, as a whole, makes appointments to the Industrial Commission.

The complainants were correct in alleging that Matthews was an ex officio member and a regular member of the Commission as well as Mayor at the same time in 1979. The SCI joins the complainants in questioning the propriety of such overlapping associations of the mayor with the Industrial Commission. Further comment will be found in the Recommendations section of this report.

4. "Failure to submit annual operational and financial reports to the Township as required by law. Failure to submit tax study as required by law." (See P. A-5).

The Industrial Commission provided copies of its annual reports which are contained in the annual municipal reports and of audits prepared by certified public accountants for most of the years requested. As stated before, because of the method of book-keeping used, both the audit of the Industrial Commission and the municipality must be examined to obtain a complete financial picture of the operations of the Commission. Briscoe stated that in the past the Commission report was filed with the municipal manager rather than the municipal clerk. The report can now be obtained by the public directly through the township clerk. No audits were conducted in 1973 and 1974 (see page 10 regarding financial records for years proceeding 1975).

The annual reports of the Industrial Commission have been limited to those accounts which are in the name of the Commission and over which the Commission exercises direct control. Those accounts were a regular savings account and a trust account. The accounting firm which conducted the annual audits since the late 1960s -- Mohel, Vogel and Elliot -- limited their scope in opinion paragraphs. The audits were based only on cash transactions. Therefore certain revenue-related assets were recognized when received rather than when earned and certain expenses were recognized when paid rather than when an obligation was incurred. Any auditor would qualify his opinion statement to indicate that the Industrial Commission operates on such a cash basis but not to indicate any irregularity, in conformance with generally accepted auditing standards.

The Industrial Commission statute is mandatory in its requirement for a tax study: "The Commission shall make a study of the tax structure with a view to reducing the tax burden of the municipality" (N.J.S.A. 40:55B-9). Both Briscoe and Young conceded that no tax structure study was ever done. This violation of the statute could adversely affect the Township and is the topic of additional comment at the conclusion of this report.

The Industrial Commission statute states that "each commission shall keep complete and accurate records of its accounts..." The Industrial Commission submitted to the SCI records for 1975 to 1980 showing revenues received and deposited into its savings and trust accounts. In response to a request for an annual report, as required by N.J.S.A. 40:55B-10, the Commission gave the SCI its "Annual Report and Activities Report" file. The annual reports are narrative pages included in the Annual Report of the Township, which is distributed to the residents of Lakewood in pamphlet form. The Activity Reports are more detailed reports sent to the Township Committee regarding ground-breaking projects, etc.

5. "Violation of enabling law and failing to utilize township facilities, leading to the purported loss of documents. Violations of applicable civil service requirements of the enabling law." (See P. A-6).

The Industrial Commission statute requires, if "practicable," the use of existing municipal employees and offices to minimize expenses. The Industrial Commission moved to its present location in the municipal building in 1975. Prior to that, it was located in the office of the Chamber of Commerce. Although initially the SCI investigation did not concern itself with the years prior to 1975, Briscoe and Young were asked if rent had been paid to the Chamber of Commerce. They were not able to supply that information. However, the Industrial Commission's minutes indicated a monthly payment to the Chamber of Commerce which was probably for rent.

The Township has elected to operate under Civil Service laws, rules and regulations. The present secretary, Lucille Schlatterer, is a civil service employee. Early records of the Commission indicate that the first secretary was a Sylvia Klevan, who was employed both by the Chamber of Commerce and the Industrial Commission. There is no indication that she was a civil service employee. A check with the State Department of Civil Service has indicated that the position is a civil service classified position even though it is part-time. Therefore, Mrs. Klevan should have been required to qualify for the post through the civil service process.

The complainants are in error in criticizing the non-civil service status of Young as Executive Director of the Industrial Commission. Young is Director of the Township's office of Industrial Development. According to an ordinance adopted by the Township Committee on December, 1977, the conduct of the Industrial Commission was listed as one of his executive responsibilities as Director of Industrial Development. Correspondence in the Commission's files confirms that Township Manager LaPointe and the Township's governing body applied for an exemption of Young's position from civil service classification. Young served provisionally at his post pending a decision by the bureau of Local Government Services of the State Department of Civil Service. On March 16, 1978, Manager LaPointe was notified by the bureau (See appendicies exhibit(s) on P. B-1-3) that Young's position was "relegated into the unclassified service." This had nullified -- long before it was filed with the SCI -- the complainants' allegation that the enabling law's civil service requirements "were overlooked" and that "to this day he (Young) has not had to qualify under Civil Service regulations."

6. "Failure to make records and accounts available for public inspection as specified by the enabling law." (See P. A-7).

There was validity to this position but the situation has been corrected. As has been mentioned previously, all records which should be made public are now available to the public through the Township Clerk. Financial records from the earlier years of the Industrial Commission are still not available for public inspection.

7. "Violations of the enabling law by creating some \$4.3 million debt for the Township through bonding." (See P. A-8).

The Township Committee, not the Industrial Commission, created the debt, which will be amortized by proceeds from the sale of the lands in the Industrial Commission's area of jurisdiction. These bonds are revenue bonds and are not being paid by local taxpayers.

8. "Questionable bookkeeping practice included transfers of funds that disappear.

Apparent 'private' bank accounts that appear on no records." (See P. A-8).

There is no private bank account maintained by the Industrial Commission. The Industrial Commission maintains a savings account, and a trust account and more recently a checking account. Deposits from land sales are first placed in the trust account; after the closing, these monies are transferred to the savings account. Finally, after the accumulation of one hundred thousand dollars, the monies are used to purchase certificates of deposit. The SCI found no evidence of hidden bank accounts.

As part of this allegation, the complainants question the language used by the Commission's auditors. As discussed on P. 6, a "disclaimer" does not indicate any particular irregularity but refers solely to the fiscal basis of the accounts audited. In this case it indicates that the Industrial Commission was operating on a cash basis as opposed to an accrual basis with revenues recorded when received and expenses reported when paid.

The word "sundry" in accounting terminology is synonymous with "miscellaneous". The particular expenditure to which this word was applied referred to the resolution of a title problem that developed during transfer of land from Lakewood to Quality Egg Co.

In one instance, different totals of cash in the financial statement of the Industrial Commission resulted because in one statement interest of \$21.17 which was deposited after June 30, 1977, was included and in another it was not. However, all monies were accounted for.

The complainants also appear to be misled by the term "disbursement" in reference to a \$100,000 certificate of deposit. This term represented a routine "rolling over" of a \$100,000 CD.

The SCI resolved a question by the complainants about the identification of a certificate of deposit acquired in 1978 from the Garden State Bank of Ocean County. In the financial statements the same certificate of deposit appears with the same institution and the same percentage rate. However, it is stated that the CD will be due November 19, 1978, instead of November 29, 1978, an apparent typographical error.

The SCI's accountants in general found neither "loose accounting" nor "unbusinesslike, vague references" in the available financial records of the Industrial Commission.

9. "Questionable land transactions and apparent special deals with certain preferred customers." (See P. A-9).

At different times two counsels to the Industrial Commission, Norman Smith and John Briscoe, held opposing positions concerning

the method of sale of Industrial Commission land to private individuals and corporations. Briscoe stated that bidding was required; Smith said it was not. The Industrial Commission statute is silent on the subject. The bidding law itself, N.J.S.A. 40A:12-1 et seq., does not include semi-autonomous bodies such as an industrial commission in its definition of those public bodies required to sell property at bid. The SCI has been informed by letters from the Division of Local Government and from the Attorney General's Office that neither agency has taken a position requiring bidding for land held by an industrial commission. (Copies are attached as Exhibits C and D.)

It does not appear that the Lakewood Industrial Commission has violated any New Jersey statutes or case law in its method of selling its land with or without public bidding. The prices of land sold by the Industrial Commission have varied. However, considering the multitude of variables involved -- the different dates, the rising costs of land, the exercise of previously purchased options -- no prices were so extreme as to suggest that the sales were in essence a gift of public property.

In one sale specified by the complainants, the SCI found that the low price was based on an option purchased by one industrial developer in 1970 and sold to Bennett Development Co. and exercised in 1976. The land price was reasonable at the time of the option but became a bargain when the option was exercised six years later. (See P. 19, Recommendations).

The complainants submitted a copy of an audit for the year 1972 from the Industrial Commission which contained a "cropped" page (Exhibit E). They assumed that this "cropping" was an intentional effort to cover up an improper transfer of land to Excel Wood. The SCI obtained a complete audit for the year 1972 which is attached as Exhibit #6. There is no indication that the report was intentionally cropped.

Other Allegations

Although it is not one of the enumerated allegations, the complainants suggested that an impropriety was committed by the Ocean County Prosecutor in his investigation of Matthews and his dealings with Micrographics Consolidated Services, a microfilming company, and his conclusion clearing Matthews of any wrongdoing. Micrographics is a firm in which Matthews had an interest when he was a township committeeman and signed authorizations to pay Micrographics for services. Even though this involved Matthews as a committeeman, and not as a member of the Industrial Commission, it was decided to look into the allegation since Matthews was and still is on the Industrial Commission. The SCI reviewed the Ocean County Prosecutor's files and questioned Jerry Herbert, Chief of Detectives. On the basis of these interviews and other investigative actions, the SCI agrees with the Prosecutor's conclusion that there was a lack of evidence of criminal intent to violate the law.

One complainant, Saltzman, visited the SCI's offices to make further allegations that land, which he identified as Block 345, Lots 8, 8a, and 10, had been transferred to Sussna, the principal of Leveline Corporation, without the formalities of a deed. The SCI found that Sussna had purchased the land directly from private individuals. The complainants had failed to check the grantee index and relied solely on the absence of deeds from the Industrial Commission to Sussna in the grantor index.

The complainants also submitted to the SCI what they described as proof that the aforementioned "cropping" of the audit was intentional. This evidence included the deed for the following property: Block 411, Parcels 30, 31, 32, 33, 34, 37, 39, 40A, 41, and 42. The deed was a transfer from the Industrial Commission to Jack Landman and Morris Rosenblum, principals in Excel Wood. The deed listed the consideration as "none" and the complainants cited this as a definite showing of corruption, i.e. a gift of public lands to Excel Wood. The then-attorney for the Industrial Commission, Norman Smith, presently an Administrative Law Judge in Trenton, was contacted. He could not explain the absence of a consideration or of a reverter clause requiring the purchaser to construct a factory on the site. The attorney for the purchaser, Julius Braun, has left the State of New Jersey and the practice of law. The attorney who prepared the original contract for the Industrial Commission, James Jeck, is deceased. The SCI obtained the existing files of the Industrial Commission. Although the deed is silent regarding the consideration, the file contains a closing statement and copies of checks for deposit and final payment which indicate a price of \$6,175 was paid. The file also contains a letter dated May 9, 1982, indicating that Smith was of the opinion that Excel Wood could not be compelled to execute a bond requiring improvement of the property. The records of the Industrial Commission indicate this money as having been deposited. In conclusion, although the absence of a listing of the consideration could not be explained, it is evident that the property was paid for and the money was deposited in the accounts of the Commission.

After receiving several supplemental complaints and alleged "proof of wrongdoing by the Industrial Commission" from the complainants, the SCI decided that such additional areas should be explored.

As noted, to ascertain the financial history of the Industrial Commission, all of its audits were sought. It was determined that no audits were made for the years up to and including 1968. Audits were conducted in 1969, 1970, 1971 and 1972. However, no audits were done in 1973, 1974 and 1975. The Industrial Commission claimed that since its activity was so minimal up to 1969, no audits were necessary. The accountants for the years 1973, 1974, and 1975, Mohel, Vogel and Elliot, claimed that although they requested raw data from Thomas LaPointe, the Municipal Manager, none was supplied and therefore they were unable to perform an audit of the Industrial Commission for those years. Briscoe supplied supporting financial documentation and internal financial statements for those years. This data showed no evidence of

improprieties in the financial operations of the Industrial Commission. With the exceptions of an unexplained \$13,500 deposit in December, 1974, and a transfer of land to the Garden State Coat Company, the SCI compiled a financial picture of the Industrial Commission from 1969 to 1980. The 1969 transfer of land to Garden State Coat is discussed on P. 12.

Land located at Lot 2, Block 409, is within the perimeter of the Excel Wood property but Excel Wood is not paying taxes on the property. It was learned from Rosalie Cooper, who is in charge of foreclosures for Lakewood, that much land in Lakewood is possessed by unknown owners. This resulted from small parcels having been given away in the 1920s by a newspaper to its subscribers. At one point, there were thousands of these free lots in Lakewood upon which owners had stopped paying taxes. Cooper stated that she is still either purchasing or foreclosing on many of these lots in an attempt to clear title and make them available for the Township and the Industrial Commission. The owner of the parcel in question, Lot 2, Block 409, which the complainants claim was a gift to Excel Wood, is unknown. Cooper has informed the SCI that it is being foreclosed upon.

It is clear that in some deeds of property sold by the Industrial Commission a reverter clause was inserted in sales contracts requiring that the property either be developed for industrial purposes or title be returned to the Commission. In other instances this provision is lacking. The complainants allege this difference is caused by preferential treatment to certain purchasers. The SCI investigation has proved otherwise. There is no requirement in the Industrial Commission statute that a reverter clause be inserted in a contract of sale by an industrial commission. Briscoe informed the SCI that, because of objections from lending institutions, the reverter requirement was dropped. Banks were unwilling to lend money to individuals who might lose title to the land if they failed to locate an industrial building on the site. Currently, a "buy back" provision is being inserted in contracts of sale.

The minutes of the Industrial Commission meetings and financial statements were searched to determine when and how certificates of deposit were established. The minutes reveal that a certificate of deposit was purchased for the first time in 1973 and was bid upon. None was purchased in 1974. In 1975 one was established through a bidding procedure. That bidding procedure is being continued.

The complainants questioned the change in the allocation of Young's car expense from payment by the Township to payment by the Industrial Commission. In 1980, the procedure for the treatment of expenses was changed. A checking account was established by the Industrial Commission to pay for expenses, including Young's car expense, which had previously been paid for by the township. This enabled more money in the township budget to be available for Young's salary.

The complainants raised the issue of the Township spending its money to build Airport Road while contract provisions required Bennett Development Co. to complete the road. It has been determined that the Township is completing the road within the confines of the municipal airport while Bennett is constructing the road up to the boundaries of the airport.

The complainants questioned the use of monies obtained through the sale of land and the generation of expenses from the sale of land. A review of the financial statements of the Industrial Commission shows that the expenses were generated for land sale commissions, for advertising, construction, and to cover special legal problems -- all of which would be normal expenses and none of which are glaringly large sums.

Although the complainants argued that commissions should not be paid to real estate agents for the sale of town property, there is no prohibition of this in the statute. An equally strong argument is made by the Industrial Commission that the aid of real estate agents is a necessity in today's competitive market. (See P. 19, Recommendations).

In 1969 the complainants claimed property was sold by the Industrial Commission but never recorded in the Industrial Commission's annual statement. They listed a \$7,500 sale of property to Garden State Coat Company, a \$9,000 sale to Seymour Kirshenbaum, and a \$9,000 sale to Patrick Deligati. The sale to Kirshenbaum is recorded under the name Eska Chemical; the sale to Deligati is recorded under the name Dale Mark Industries. Both of these sales generated income to the Industrial Commission which was reported in its December, 1972, financial statement.

The complainants indicated that Deligati was an Industrial Commission member when the sale took place. This is incorrect. The sale took place in 1969. Deligati became a member of the Industrial Commission in 1980.

The SCI attempted to trace the funds from the Garden State Coat sale. The principals of Garden State Coat were Morris Piccini and his wife, Isabel. At the time of the sale, in 1969, they were represented by Julius Braun. The Industrial Commission was represented by James Jeck. Braun has retired from the practice of law and moved to Florida and his former office does not maintain records dating back to 1969. Jeck is deceased. Interviews were conducted with the Township Manager LaPoint; Phillip Lucas, the attorney representing the Jeck estate; Mrs. Jeck; Morris and Isabel Piccini; John Skurat, CPA and accountant for Garden State Coat in 1969; and James Gardinetti, president of the bank at which Piccini had his account. The Township Clerk and Treasurer also were contacted, as was Briscoe.

Neither the Industrial Commission nor the Township Clerk or Treasurer had any documentation indicating that the money from Garden State Coat purchase was received. Jeck's bank did not maintain copies of checks dating back to 1969. SCI personnel spent

an entire day scanning disorganized records in the basement of the Jeck home in an attempt to trace the transaction. The ledgers of the accountant for Garden State Coat, Skurat, indicate that a \$5,600 check for the purchase of the land was drawn by Garden State Coat and made payable to James Jeck in September, 1969. A similar check was also drawn for the purchase of land for the amount of \$2,300 but the payee was not indicated. The total of both checks is \$7,900. It is quite possible that these checks represent payment for the Industrial Commission's land-related fees.

In sum, the monies from the sale can be traced from Piccini to Jeck and no further. Because of the age of the incident, the loss of records, and the absence of witnesses, no inference can be drawn that the monies were diverted by Jeck. The one criticism that can be made, based on the SCI's review of this incident, is that in 1969 the Industrial Commission was notably lax in itemizing monies received. Lucas stated that to his knowledge this was the first time that anyone ever questioned Jeck's accounts.

Another series of allegations was reviewed by the SCI.

In March of 1978, \$561.35 was transferred from the Industrial Commission's trust account to its savings account. The SCI's investigation revealed that the Industrial Commission incorrectly recorded this money as coming from the Gusmer Company rather than Bennett Development. This error was located by the Industrial Commission and was corrected by a paper refund to Gusmer. There was no loss of money to the Industrial Commission.

The complainants alleged that land was sold to speculators who in turn sold it to industry when the land should have been sold directly by the Industrial Commission to industry. The statute is silent on prohibiting the use of middlemen. Briscoe acknowledged that in the past the Industrial Commission used Bennett Development and Sudler Construction to purchase and build industrial buildings which in turn would be sold by Bennett or Sudler to industry. While noting that there is no prohibition against this procedure, Briscoe claims that now the policy of the Industrial Commission is to sell directly to an industry after installing roads, water, and sewers.

The final allegation was that the Industrial Commission has been in violation of N.J.S.A. 40A:5-1 et seq., which requires certain governmental units to be audited by a "registered municipal accountant of New Jersey". The accounting firm of Mohel, Vogel, and Elliot, the firm which compiled the financial statement of the Industrial Commission in past years, admits that no member of its firm is a registered municipal accountant.

However, the Industrial Commission apparently does not fall within the ambit of the statute. The statute requires this special type of audit for "the governing body of every local unit". This term is defined as "... the board of chosen freeholders of a county or the commission, counsel, board or body having control over the finances of a municipality," N.J.S.A. 40A:5-2. Clearly, the Industrial Commission does not fall within this definition.

Furthermore, the Industrial Commission depends for its financial existence on the Township of Lakewood and is in fact an item in the Township budget.

Lakewood Township is presently audited by the accounting firm of Samuel Klein and Co. and was formerly audited by Seaman, Seaman and Oslaslo, both registered municipal accounting firms as verified by the Division of Local Government, Department of Community Affairs. Therefore, all of the seven detailed allegations which the complainants made regarding violations of N.J.S.A. 40A:5-1 et seq. are without basis.

CONCLUSIONS

As the SCI stated in the introduction to this report, the inquiry into the allegations against the Lakewood Industrial Commission revealed no evidence of activities of a criminal or corruptive nature on the part of that entity. A number of the accusations were found to be without foundation while others did point to certain inappropriate actions or omissions in the conduct of the Commission. Concerning those allegations which raised justifiable questions about the Commission's operations under law, the SCI has proposed revisions of the statute that would apply to all entities governed by N.J.S.A. 40:55B-1 et seq. In the case of certain allegations which were found to be baseless, it must be said that, in view of the unavailability of public records that were mislaid, lost or not provided for public inspection as required by law, the complainants could only assume, as they did, that the truth was being concealed. However, the SCI inquiry also disclosed that some allegations might not have been made had the complainants thoroughly researched the available facts. This report has faulted both the Commission and the complainants in numerous instances. On the other hand, the complainants to their credit did instigate an inquiry that should result in an improved operation not only of the Lakewood Industrial Commission but all such entities throughout the state. As for the Commission, it cooperated fully with the SCI inquiry to the extent of its available books and records. The SCI has been informed that the Commission has been designated as the recipient of an "achievement award" by the Southern New Jersey Development Council.

RECOMMENDATIONS IN DETAIL

The SCI recommends the following revisions of N.J.S.A. 40:55B-1 et seq.*:

40:55B-3. Body corporate; number of members

Recommendation

Amend 1st paragraph to read:

"Any Commission so created shall consist of five members in municipalities of fewer than 50,000 population and of seven members in municipalities of 50,000 population or more..."

*Refer to Exhibit G in the Appendices Section.

Comment

The SCI report suggests that Lakewood with its (1980 census) population of 38,000 either did not or could not assemble an Industrial Commission of seven members representative -- "unless local conditions shall otherwise require" -- of the seven statutorially enumerated categories of membership. A subsequent recommendation by the SCI would reduce these membership qualification categories to at least three categories that can be made mandatory in even the smallest municipality whose local characteristics otherwise would warrant an industrial commission. Such a reduction in membership categories would then be more relevant in municipalities eligible for only 5-member commissions under the revision proposed above.

40:55B-5. Members and officers

Recommendation

In line with the SCI's proposed change in the definitions section 40:55B-1, change the appointing authority in the first paragraph of this section from the mayor to the elected members of the municipal governing body by a majority vote of such body, with vacancies also to be filled in the same manner.

Comment

In Lakewood, changing the appointing authority from the mayor to the elected governing body would legitimize a current unofficial practice. In so doing, however, the quality of appointees under such a procedural change would be enhanced by additional safeguards outlined in other proposed law revisions to be detailed later in this section of the report. It should be noted here that, with these safeguards in place, requiring the commission appointees to originate with the elected governing body would provide a broader base of civic experience and contacts for initiating the nomination of prospective members who can qualify under other proposed revisions in the appointive process.

Recommendation

Also require in this section that no more than 3 members of a 5-member commission or 4 members of a 7-member commission be of same political party.

Comment

This proposed revision would assure a bipartisan operation of an industrial commission. The SCI believes that the importance of the legislative finding and purpose stated in Section 2 of the enabling statute should not be subject to political partisanship reflecting the input of only those members representative of a portion of the local citizenry.

Recommendation

The first paragraph of this section also should be extended to prohibit from regular voting membership on an industrial commission any member of the local elected governing body.

Comment

The complainants indicated that conflicts of interest had occurred with respect to elected members of the governing body also serving as members of the Township's Industrial Commission. The statute is silent on such a dual role, with the exception of the ex officio membership of the mayor. This proposed revision would make clear that the only commission membership role of a governing regime be the mayor's ex officio position. A commission could hardly be classified as quasi-autonomous entity with a membership that included members of its appointing authority. In addition, this change would further reduce the dominant influence of the elected governing regime that the statute now permits, and which was the target of some of the complaints against the Lakewood commission.

Recommendation

Revise the third paragraph of this section to mandate that at least three members of an industrial commission be representative of industry or commerce, labor and the legal profession. Eliminate the archaic requirement that the membership require "at least one thoroughly competent representative of mill owners and operators of mill properties," but retain the remaining categories of representation subject to the clause "unless local conditions shall otherwise require."

Comment

The mandatory recommendation for three of the presently enumerated categories should be enforceable in any municipality, whatever its population, that otherwise enjoys the characteristics of a locality where an industrial commission would be advantageous. This change also would safeguard the quality of appointees resulting from changing the appointing authority from the mayor to the elected governing body. The specification for a mill owner or operator representative is too narrow, arbitrary and archaic to be included in the enumerated categories but certainly would not be excluded under either the SCI's mandated categories or the suggested representations that would remain in the statute. In fact, so predominant are the industry and business categories, the SCI suggests that consideration be given to mandating at least two labor representatives in municipalities with 7-member commissions.

Recommendation

Amend the fourth paragraph of this section to include a requirement that each appointee to a commission file with the municipal clerk a public disclosure of all of sources (not amounts)

of earned and unearned income as well as an enumeration of all real estate holdings.

Comment

This fourth paragraph is intended to prohibit conflicts of interest from developing during the course of an industrial commission's operation. A personal financial disclosure as recommended above would strengthen this provision.

Recommendation

The next to the last paragraph of this section stipulates that a majority of the members would constitute a quorum. The SCI recommends that a quorum must consist of four members of 5-member commissions and five members of 7-member commission. If the present provision is retained, however, it should be required that at least one of the majority present and voting be a minority member of the Commission.

Comment

This proposal for increasing the size of a duly constituted quorum reflects the SCI's desire to assure a bipartisan operation of a commission affected by a previous recommendation limiting the representation of one political party to no more than three on a 5-member commission and no more than four on a 7-member commission. The revised quorum requirements proposed above would compel the presence of at least one member of a political minority on a commission in order for it to conduct its business.

40:55B-6. Employees; offices

Recommendation

The final paragraph of this section refers to a commission's office and assorted documents, which are subject to public inspection under regulations determined by the commission. This provision should be amended to require that the only condition that may be imposed on the availability of such public records is that they can be inspected during regular office hours of the municipal government.

40:55B-9. Study of Tax Structure

Recommendation

As noted previously in this report, the Lakewood Industrial Commission has never made a study of the Township's tax structure, as mandated by this section. The SCI perceives this inaction, which was the subject of one of the allegations, to be a blatant violation of the law that should subject present and past members of the commission to criticism in view of the stated purpose of this study. The statute states that such a study shall be conducted "with a view to reducing the tax burden of the

municipality." The SCI calls on the Lakewood Industrial Commission to undertake such a tax structure study forthwith.

40:55B-10. Limitations on powers; appropriations, records and reports

Recommendation

The fourth paragraph requires each commission to make an annual report "to the municipality by which it was created..." Such a report should also be required to be a public report that should be submitted to the governing body of the municipality and specifically filed with the municipal clerk, where it shall be open to public inspection during the regular business hours of the municipality. This section requires that a commission's annual report shall set forth in detail "its operations and transactions for the proceeding 12 months." This provision should specify that the contents of the report must include its expenditures and disbursements -- all of its cash transactions, in fact.

Recommendation

The concluding paragraph of this section covers appropriations, expenditures, annual budgets, financial records, etc. There is no requirement that the commission make its budget requests public, and this should be corrected. Also, the budget appropriations authorized for the commission by the governing body, which are incorporated within the annual municipal budgets, should be made public by the industrial commission immediately upon authorization. Further, the requirement that each commission keep complete and accurate records of its accounts should be coupled with a requirement that such fiscal records must be available for public inspection at any time within the municipality's regular business hours.

Comment

A major portion of the complaints covered by this report related to annual reports, audits and to various financial transactions that were lost, not easily available, or not filed at an office where the citizenry would know of their availability for public inspection. The SCI's recommendations for revising this section would stipulate the right of public access to all such reports and records and would designate the particular office where they can be located and inspected. This SCI report faults the Lakewood Industrial Commission for the loss, absence or limited availability of its records in the past.

General

Recommendations

The Industrial Commission statute is silent on whether a commission is required to comply with State bidding laws. Some of the complaints included the issue of public bids. The Lakewood

Industrial Commission at least in recent years has required the purchase of certificates of deposit to be based on competitive bidding, an appropriate process. However, to subject property transactions to competitive bidding might be impractical, even self-defeating. The SCI recommends, instead, that the Industrial Commission Statute be amend to require that all contracts for the sale, lease, option or other transfer of property rights be subject to public notices and public reviews for a period of at least 30 days prior to any final closing of such transactions.

A question was raised by the complainants about an option to buy commission land that became a bargain when exercised some six years later. All industrial commissions should be required to include in regulations that reflect its powers to sell or lease land and to enter into contracts a time limit on such options to purchase.

The enabling law should be amended to either prohibit or regulate the payment of commissions or fees to real estate agents and to prohibit dealings with speculators who without any enhancement of the property then resell land to companies for industrial development.

APPENDICES

SECTION

Mr. Lewis B. Kaden,
Commissioner,
State Commission of Investigations,
28 West State Street,
Trenton, N.J. 08608

Dear Mr. Kaden:

Investigation into the records of the Lakewood Industrial Commission, which transacts millions of dollars worth of business with Township funds and properties, have disclosed a striking number of violations of the law, irregularities, and matters of a highly suspicious nature, not the least of which is a great number of missing documents that the Commission asserts have been lost.

The records we have been able to obtain disclose the following:

- 1- No record of having received hundreds of thousands of dollars from the Township of Lakewood, which appears in the Township's annual budget. No accounting of what was done with these funds. No records of the Commission's expenditures for operating expenses.
- 2- Apparent conflicts of interest in employment as well as in investments and bank accounts.
- 3- Violations of the enabling law (40:55B) in the appointment of members to the Commission as well as in the Commission's make-up.
- 4- Failure to submit annual operational and financial reports to the Township, as required by law. Failure to submit tax study as required by law.
- 5- Violation of enabling law in failing to utilize Township facilities, leading to the purported loss of documents. Violations of applicable Civil Service requirements of the enabling law.
- 6- Failure to make records and accounts available for public inspection, as specified by the enabling law.
- 7- Violations of the enabling law by creating some \$4.3 million debt for the Township through bonding.
- 8- Questionable bookkeeping practices, including transfer of funds that disappear. Apparent "private" bank account that appears on no records.
- 9- Questionable land transactions and apparent special deal^s for certain preferred customers.

For your convenience, we are attaching an explanation of the above finding, and we are enclosing documents to support these charges.

Obviously this matter is so complex we can only outline our findings in this letter. We would appreciate meeting with you or a member of your staff, at your earliest convenience, to provide more complete substantiation of these charges.

Sincerely yours,

William Saltzman

William Saltzman

19 Myrtle Place
Lakewood, N.J. 08701

364-2115

Alva Harris

Alva Harris

1547 Alamitos Drive
Lakewood, N.J. 08701

367-6645

Jesse Friedlander

Jesse Friedlander

900 Forest Avenue
Lakewood, N.J. 08701

367-2470

1- No record of having received hundreds of thousands of dollars from the Township of Lakewood, which appears in the Township's annual budget. No accounting of what was done with these funds. No records of the Commission's expenditures for operating expenses.

Enabling law 40:55B, Section 10, Paragraph 4, states in part:

"Each Commission shall make an annual report...setting forth in detail its operations and transactions for the preceding twelve months..."

Section 10, Paragraph 6, states in part:

"Each Commission shall keep complete and accurate record of its accounts..."

a. Since its inception in 1960, the Industrial Commission has received sums of money from the Township for its operating expenses. For the past 10 years, this has been \$25,000, the maximum allowed, until 1978 when the law was revised. That year the Commission received more than \$46,000 and last year the sum was \$38,000. None of these funds are recorded in any of the audits or reports submitted by the Commission to the Township. (See Exhibits 3 through 9).

b. While the same reports (Exhibits 3 through 9) show Commission expenditures for improvements and such, all of the funds for these purposes are shown to come from sale of land and government grants. Nothing in these audits reveals how, when and where the funds received from the Township were spent.

c. The Commission has certain expenditures we know of, such as a dinner party it throws for its members each year, a stipend of \$500 for its executive director for his auto expenses, some \$1,500 yearly for the executive director to attend conferences, etc. It also spends money on business luncheons with prospective investors as well as with Township officials and employees (see Exhibit 10, Pages 21 through 26), but nowhere in its records is there an accounting for these expenditures.

NOTE: Because of the above, the taxpayer has ~~no~~ way of learning what has happened to these funds. Has the Commission built a large reserve? If so, are the annual Township funds budgeted for the Commission actually necessary? Has the money been spent for its intended purposes? Are any of these funds unaccountably "missing"?

2- Apparent conflicts of interest in employment as well as in investments and bank accounts.

Enabling law 40:55B, Section 4, Paragraph 5, states in part:

"No member, officer or employee of any Commission shall be interested directly or indirectly in any...lease or agreements in connection with lands, buildings or other property owned or controlled by it, or in any fees or compensation paid...or the benefits or profits thereof."

a. On Exhibit 3, Page 3, there are listed two \$100,000 certificates of deposit, one each with Garden State Bank of Ocean County and First National State Bank of Edison. In addition, there are deposits totalling nearly \$250,000 with the latter bank. Committeeman H. George Buckwald, for many years the dominant factor in local politics, has for at least a decade been the Township Committee "liaison" to the Industrial Commission (although 40:55B recognizes no such position). In disclosing his financial holdings during his recent campaign for Freeholder, he revealed that he is a major stockholder in both banks, on the board of directors of both banks, and is a founder of at least one of these banks.

b. The interest rate of 7.11 per cent appears entirely too low to us, but we do not have available a list of the going rates at that date. However, in checking the Township records, we find that at an earlier date the Township was able to get an interest rate of 9.25 for a similar certificate of deposit.

NOTE: Considering the great number of banks that were offering certificates of deposit at that time, it stretches credulity to believe that it was merely coincidence that the two selected should happen to be the very two in which Mr. Buckwald has an interest.

QUESTION: If the above mentioned certificates were purchased without bids or quotes, was state law violated?

c. Committeeman Kenneth Matthews, chairman or member of the Industrial Commission since 1974 (although 40:55B, in specifying who shall be Commission members, omits Township officials) was formerly the Commission's executive director. In 1972, he negotiated the sale of land to Excelwood and Howell Woodwork (same ownership) after which he was hired to an executive position with that firm. According to what he told the newspapers, he resigned his Commission post in 1972 in order to take the job with Excelwood. However, on Exhibit 8, Page 2, dated May 22, 1973, he signed the Commission report as executive director, showing he was holding both jobs at the same time.

NOTE: The details of that land sale are clearly being concealed from the public (Exhibit 8, Page 8) as the page has been turned in such a manner that the figures have been cropped off -- without question, intentionally.

d. In a land-swap deal (Exhibit 15) Roseland Estates agreed to build a street to be called Summer Avenue in exchange for the Township closing off the northern end of Massachusetts Avenue. The result of this maneuver was to expand greatly the land available to Excelwood for its plant, as Massachusetts Avenue had formed the western boundry of its property. The records show that the ownership of Roseland Estates is the same as Excelwood. The purported purpose of opening up the new street was to permit Roseland Estates to develop the area, increase the Township's tax base and thus to lower taxes. This land remains completely undeveloped. It obviously was all a subterfuge to permit expansion of Excelwood, while keeping from the public (by using the Roseland Estates name) the real purpose.

NOTE: Mr. Matthews was at the time of this deal, a member of the Industrial Commission and could well have introduced, pushed through and voted for this project which benefitted his company. We have been prevented from checking this because the records and minutes for those meetings are among the documents Mr. Matthews contends have been lost.

3- Violation of the enabling law (40:55B) in the appointment of members to the Commission as well as in the Commission's make-up.

Enabling law 40:55B, Section 5, Paragraph 1, states in part:

"The members of each Commission shall be appointed by the mayor of the municipality..."

Also, Section 5, Paragraph 3, states in part:

"There shall be appointed...one thoroughly competent representative of...mill owners...labor...clearing houses or banks...service clubs legal profession...real estate dealer."

Also, Section 5, Paragraph 7, states in part:

"The mayor...shall be an ex officio member..."

a. The enabling law, in list¹⁰³ who shall be appointed to the Commission, has made it clear that this shall be a semi-autonomous body. The sole contact it provides with the Township Committee is the mayor as an ex officio member. In Lakewood, besides the mayor being an ex officio member, a committeeman, H. George Buckwald, has for at least the past 10 years, ~~be~~ the Township Committee's "liaison" to the Commission, and another committeeman, Kenneth Matthews, has since 1974 been a voting member and on several occasions the chairman of the Commission.

NOTE: With the same leadership on both bodies, the Commission need not come to the Township Committee for financial assistance or for Township aid in improving its property, for the same men who are making the requests are the ones who must approve it. Of course, as a matter of formality, such requests are made, but we have been unable to find a single occasion where any request was refused.

b. When Mr. Matthews' first appointment expired in 1979, he was at the time mayor of the Township. The law requires that the mayor make all the appointments to the Commission, but since he could not reappoint himself, in this case the law was circumvented and he was reappointed by a vote of the Township Committee (Exhibit 17). He continued as the chairman of the Industrial Commission while serving as mayor. Also, under the law, he was at the same time an ex officio member.

NOTE: The Township Attorney, who also serves as the attorney for the Industrial Commission, went along with this violation of 40:55B, as he has done on some other questionable matters.

c. To the best of our knowledge, there has never been any attempt to comply with the membership requirements. For instance, there has never been a labor representative appointed to the Commission, and there may well be other failures to balance the Commission's make-up, as required by law.

4- Failure to submit annual operational and financial reports to the Township, as required by law. Failure to submit a tax study, as required by law.

Enabling law 40:55B, Section 10, Paragraph 4, states in part:

"Each Commission shall make an annual report to the municipality by which it has been created, setting forth in detail its operations and transactions for the preceding twelve months."

Also, Section 10, Paragraph 7, states in part:

"Each Commission shall keep complete and accurate records of its accounts."

Also, Section 9, states:

"The Commission shall make a study of the tax structure with a view to reducing the tax burden of the municipality."

a. Exhibit 10, while hardly complying with all the requirements of the law, did attempt to give in some detail an account of the Commission's daily operations. Since that time (Exhibits 3 through 9), from 1971 through June of 1979, the Commission has failed to file such reports.

b. The Commission did submit an incomplete audit (two or three pages to cover the entire year) for the years 1971, 1976, 1977, 1977-78 (a questionable change in auditing methods began at this point) and 1978-79 (Exhibits 3 through 9).

c. Nothing was submitted for the years 1973, 1974, 1975. The 1972 audit (Exhibit 8, Page 8) was cropped (undoubtedly intentionally) to obscure certain sales figures. There is proof that at least the 1973 audit was never filed annually as required (and not just among those records Mr. Matthews contends have been lost). Exhibit 7, dated March 29, 1975, shows that the 1973 audit had not been completed to that date because of insufficient data. There is no record the data was ever received.

d. The tax structure study, required by law, was never submitted.

- 5- Violation of enabling law in failing to utilize Township facilities, leading to purported loss of documents. Violation of applicable Civil Service requirements of enabling law

Enabling law 40:55B, Section 6, Paragraph 4, states in part:

"If practicable, existing office facilities of the municipality served by the Commission shall be used without charge by the municipality."

Also, Section 6, Paragraph 1, states in part:

"In so far as may be practicable, the employees and assistance required by the Commission shall be recruited from the public employees of the municipality served...and the mayor shall designate which of the municipality's employees shall render such service."

Also, Section 6, Paragraph 3, states in part:

"Civil Service laws, rules and regulations of the state...shall govern the appointment of employees of the Commission..."

a. The missing records mentioned previously, as well as minutes of meetings and other documents, were kept, according to Mr. Matthews, in his office (301 Madison Avenue) when he was employed by the Chamber of Commerce as its executive director. They were lost in 1975, he contends, when the records were moved to the Municipal Building. There is no doubt that it was "practicable" to have them in the Municipal Building as of January 22, 1970 (see Exhibit 13) when the Municipal Building was accepted and occupied for full municipal use.

b. While insisting these records were lost in transit, when moved to the Municipal Building, Mr. Matthews admits the loss was never reported to the police, nor was any attempt made to find the lost records.

c. Since the move (and purported loss) occurred in 1975, there is no explanation why the records, minutes and other documents for 1976, 1977 and 1978 are missing as well.

d. While stored in the Chamber of Commerce office, the records of the Industrial Commission were kept and maintained by Sylvia Klevan (Exhibit 8, Page 6) who was neither a Township employee or Civil Service.

e. Mrs. Klevan was listed as secretary for the Commission (Exhibit 8, Page 6) and her salary was paid equally by the Township and by the Chamber of Commerce, as was Mr. Matthews at this time. We believe the Township also paid for the space in the Chamber of Commerce Building (although it had space of its own) but the records to substantiate this are among those missing.

f. In 1974, George Smith was appointed to the dual position of executive director of the Industrial Commission and assistant to the municipal manager, at a salary of \$18,000 "pending Civil Service examination." (Exhibit 16, Page 1). The Township at that time noted that this position should come under Civil Service statutes. The appointment of the current executive director took place one year later. The dual position was identical and the salary was also \$18,000, but this time the Civil Service requirements were overlooked. (Exhibit 16, Page 3). To this day he has not had to qualify under Civil Service regulations.

NOTE: Mrs. Klevan retired and reportedly had moved to Florida. However, she recently turned up again as a part-time employee in the Township attorney's office, a position she has been granted for only two months, until December 31 of this year. We had asked at a meeting whether she had receipts for all the documents that were reportedly lost in transit. The question was never answered. We may be overly suspicious, but since the Township knows about this probe, we feel she may have been put into the attorney's office to be coached.

6- Failure to make records and accounts available for public inspection as specified by the enabling law.

Enabling law 40:55B, Section 6, Paragraph 4, states in part:

"The Commission shall have and maintain a suitable office where its maps, plans, documents, records and accounts shall be kept, subject to public inspection..."

a. The first attempt to see the Commission's records were made in 1975 at a public meeting of the Township Committee, at which time the Township attorney said the Industrial Commission was an autonomous body and its records were not subject to public inspection.

b. The next attempt was made this past August when, after reading 40:55B and learning these records are indeed public, the Township Clerk was approached. She said she had never received any records from the Industrial Commission.

c. The matter was then brought up at a public meeting of the Township Committee on August 28, 1980, at which time the pertinent sections of 40:55B were cited. The Municipal Manager insisted these reports were submitted annually to the Township Clerk and were available at her office. She was approached the next day and again denied ever having received them.

d. The matter was brought up again at the Township Committee meeting of September 25, 1980, at which point the Township Clerk made a public denial of ever having received the documents. Only then did the Township Manager admit that these records had been kept in his files, but he added he had since turned them over to her. This proved untrue (Exhibit 2), but she did receive a portion of them the next day. The enclosed comprise everything sent to her office, representing 20 years of Industrial Commission business.

NOTE: Whatever documents Mr. Matthews sent to the Township, were earmarked for the Township Manager, Mr. Thomas LaPoint, and were kept in his private files where they could not be inspected by the public. Most of the records, of course, still have not been made public information.

7- Violation of the enabling law by creating some \$4.3 million debt for the Township through public bonding.

Enabling law 40:55B, Section 10, Paragraph 2, states in part:

"No Commission shall create any debt against ... (its) municipality..."

a. In 1978, the Township of Lakewood bonded ^{ed} for approximately \$4.3 million for the stated purpose of paying for improvement (roads, utilities, etc.) of the Industrial Campus.

NOTE: The Township contends it has created the debt, not the Commission. However, since the same clique controls the Township Committee and the Industrial Commission (by circumventing the provisions of 40:55B that would have kept the Commission semi-autonomous), it is actually the Commission, for its purposes, that has created the debt. So far as the taxpayer is concerned, it is certainly the same thing. He, through his taxes, which have just gone up 37 per cent, is paying for the improvements of the Industrial Campus.

8- Questionable bookkeeping practices, including transfer of funds that disappear. Apparent "private" bank account that appears on no records.

Enabling law 40:55B, Section 10, Paragraph 7, states in part:

Each Commission shall keep complete and accurate records of its accounts..."

a. All available facts point to the obvious existence of a third, "private" bank account, which appears on no records and has never been made public. This is probably a checking account, rather than a third savings account. Besides the fact that the audits show no record of operating expenses or of where the Township funds have gone, on Exhibit 5, Page 4, there is a sum of \$2,530 which is recorded as being transferred to the "regular account." Since this sum shows up nowhere else, the "regular account" is obviously the "hidden account."

b. In Exhibit 3, Page 2, and Exhibit 4, Page 2, the auditor apparently felt constrained to include a disclaimer in his reports, i.e. "the accompanying financial statements are not intended to present financial position and results of operation in conformity with generally accepted accounting principles." (sic)

c. Examples of loose accounting and unbusinesslike, vague references can be found throughout the reports. For example, in Exhibit 4, Page 4, there is a disbursement of \$609 for something termed "sundry." Also, the totals for cash in the bank as of June 30, 1977, appears twice, but is different in Exhibit 4, Page 3, and Exhibit 5, Page 5. Also, on Exhibit 5, Page 3, a certificate of deposit is listed as a disbursement, while on other audits certificates of deposit are listed as assets or as money in bank. Also, on Exhibit 4, Page 3, a certificate of deposit (No. 4325) is due on November 29, 1978. On Exhibit 3, Page 3, an unnumbered certificate of deposit is listed as due November 19, 1978. These two may, or may not, be the same certificates.

9- Questionable land transactions and apparent special deals for certain preferred customers.

Enabling law 40:55B makes no mention of special deals, but this, no doubt, is covered by other State statutes. Much of charge No. 9 has already been covered on Pages 2 and 3 of this report in items c. and d.

a. Certain customers, particularly Sudler Construction Co., and Bennett Development Co. appear to be able to purchase land at lower prices than others. On Exhibit 5, Page 5, for instance, Bennett acquired land for \$1,455 per acre, while others were paying more than three times that much.

b. There apparently was an excellent deal for Excelwood, so good in fact that the figures were cropped of the audit page (Exhibit 8, Page 8).

NOTE: While it may not be significant, there seems to be a very close connection between Committeeman H. George Buckwald, the "liaison" to the Commission, and Sudler. According to newspaper accounts, he was a house guest in Florida at the home of Marty Lehrer, former executive of Sudler Co.

FINAL NOTE

Having completed the foregoing, the reader must have detected what casual regard certain of Lakewood's officials hold the laws of the State when they prove inconvenient or inhibiting.

Perhaps the most cavalier in this respect is Mr. Matthews, who only this past summer was found to have voted more than \$6,000 worth of Township business to a micro-filming firm in which he held a one-third interest and of which he was an officer. He even went so far as to sign vouchers to his own company.

There is some question as to whether the bid laws were violated, for the work was awarded without even the cleansing benefit of competitive bidding. There is no question that it was illegal for the firm to do business with the Township, and Mr. Matthews' votes to award the work constitute a Class II offense. Signing vouchers merely set the seal on the whole mess.

This matter, as have so many others, was brought to the attention of our County Prosecutor and, as in so many other cases, was dismissed without even reaching a grand jury. He accepted Mr. Matthews' explanation that he didn't realize what he was doing, although we find it absurd that a man who has made his livelihood in the public sector for more than a decade should be unaware that conflict of interest laws exist. The County Prosecutor dropped the charges after exacting promises from Mr. Matthews that he would divest himself of his stock in the company and would never repeat the offense. It is worthy of note that Mr. Matthews' contrition did not extend to his offering to return one cent of his illegally obtained profits.

We don't know if Mr. Matthews has filled the above requirements, but we do know that the offending firm continues to receive all the Township's business and has yet to be put to the indignity of competitive bidding.

The County Prosecutor, in our view, has created two fascinating precedents -- ignorance of the law is now a valid defense and stolen property need not be returned. In other words, if I swear I didn't realize I was breaking the law when I stole my neighbor's silverware, I can avoid prosecution by promising never to do it again and by divesting myself of my burglar's tools. In addition, I will be entitled to keep whatever silverware I have already stolen.

We feel the permissiveness ~~and~~ of our County Prosecutor in dealing with those who have betrayed a public trust has created an atmosphere which encourages the brazen disregard for the law exhibited by Mr. Matthews and others of his ilk. It is for this reason we have brought the Industrial Commission matter to your attention, rather than pursue it locally.

The Matthews conflict of interest case, as outlined on this page, might also warrant your attention. If so, we will be happy to provide whatever documentation you require.

DIRECTOR OF ECONOMIC AND INDUSTRIAL DEVELOPMENT

DEFINITION

Under direction, plans, organizes and directs the planning and promotional activities involved in the economic and industrial development of the jurisdiction; does related work as required.

EXAMPLES OF WORK

Plans, organizes and directs a program designed to enhance the economic and industrial development of the jurisdiction.

Coordinates Federal Aid Programs relating to the economic growth of the jurisdiction.

Conducts and analyses economic, real estate and industrial surveys.

Analyses and evaluates business trends, legislation and developments affecting industry.

Maintains records of and provides information on labor availability, transportation facilities, housing, hospitals, educational facilities, tax structure of the municipality, zoning requirements etc.

Attends and participates in conferences and meetings concerned with the industrial development of the jurisdiction.

Prepares reports and studies pertaining to the industrial and business development of the jurisdiction.

Handles mail promotions directed to industrial firms in an effort to attract new residents to the jurisdiction.

Makes survey tours of available sites for prospective clients.

Maintains up to date files on available sites, their specifications, and pertinent information on existing available structures.

Steers prospective clients to various public and private agencies for receiving financial assistance, manpower training, etc. and assists clients with processing the necessary paper work.

Promulgates statistical and research data for the enhancement of industrial development.

Represents the jurisdiction's position on industrial development matters at various federal and State hearings.

Maintains a close liaison with agencies and persons interested in industrial and business development.

Prepares the budgetary recommendations for the Department.

Prepares correspondence.

Prepares clear, sound, accurate and informative reports containing findings, conclusions and recommendations.

DIRECTOR OF ECONOMIC AND INDUSTRIAL DEVELOPMENT - (Continued)REQUIREMENTSEducation

Graduation from a four year course at an accredited college or university.

Note Applicants who do not meet the above educational requirements may substitute additional work experience as indicated on a . year for year basis.

Experience

Five years of professional or administrative experience in land use activities, or in large scale industrial or commercial property sales or commercial property development programs.

Knowledge

Thorough knowledge of the methods and techniques of gathering information concerning available real estate and its possible use.

Of the geography, material resources, climatic conditions and varied activities, problems and possibilities of the jurisdiction.

Of the collection, preparation, editing and distribution of significant information.

Of the methods likely to be effective in securing the active good will and cooperation of civic, business and other interested groups and organizations.

Of planning suitable publicity releases for newspapers.

Of establishing and maintaining pertinent mailing lists, records and files.

Ability

Ability to read, write, speak and understand English sufficiently to perform the duties of this position.

To organize assigned work and develop effective work methods.

To work harmoniously with associates and with other groups and individuals engaged in or concerned with industrial development.

To communicate effectively both orally and in writing.

To analyze and draw sound conclusions from available data.

To prepare clear, sound and accurate reports and studies.

To establish and maintain pertinent records and files.

Good health and freedom from disabling physical and mental defects which would impair the performance of the required duties or which might endanger the health and safety of oneself or others.

DIRECTOR, ECONOMIC DEVELOPMENT PROGRAM

DEFINITION Under direction, is responsible for the planning organization, development and supervision of an Economic Development Program, does related work as required.

EXAMPLES OF WORK Develops a comprehensive plan to establish and foster economic self help programs in a locality foster the establishment and organization of small business enterprising or supervises the organization of block associations and provides technical assistance to enterprises until they become self-sustaining; gives talks to various religious, civic, and block associations to explain the purposes of the Economic Development Program; formulates and is responsible for all budgetary expenditures; supervises and is responsible for all work assignments of subordinate personnel; maintains the necessary records and files.

REQUIREMENTS

1. Graduation from a four year course at an accredited college or university.
- * 2. Two years of paid full time experience in the administration or organization of small business enterprises of various types.
3. Wide knowledge in the concept, methods, and procedures involved in the establishment, promotion, and supervision of various self help small business enterprises; of the methods required to deal with members of a community of the organization to elicit information required, of the functions and scope of various public and private agencies which will assist community associations in organizing small business enterprises, of individual and community economic problems and of the establishment and maintenance of records and files.
4. Ability to organize and administer small business enterprises for the purpose of economic self help and development in a community; to prepare sound and accurate reports containing findings, conclusions, and recommendations; to plan and execute co-operative agreements between the community and officials of the Economic Development Program, to speak clearly before interested groups concerning the objectives of the Economic Development Program, and to supervise and assign work to subordinates.
5. Good health and freedom from disabling physical and mental defects which would impair the proper performance of the required duties or which might endanger the health and safety of oneself or others.

BRS

8-15-77

*Note Applicants who do not meet the above educational requirement may substitute additional work experience as indicated on a year for year basis.



EXHIBIT C

STATE OF NEW JERSEY


DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF LOCAL GOVERNMENT SERVICES

363 WEST STATE STREET
CN 803
TRENTON, N.J. 08625

JOSEPH A. LE FANTE
COMMISSIONER

May 13, 1981

TO: Robert E. Geisler, Esq.
Commission of Investigation

FROM: Barry Skokowski, Director 
Division of Local Government Services

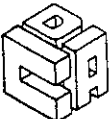
SUBJECT: Bidding Requirements for Industrial Commissions

This is in response to your letter of April 21, in which you requested our advice on whether industrial commissions must comply with any bidding requirements when selling land to private individuals.

The question you have raised is an interesting one, and one to which the statutes do not provide a specific answer. We have also discussed this matter with Ms. Gertrude Erman in the Division of Legal Services of the Office of Legislative Services. Ms. Erman also agrees with our basic observation that there appears to be no particular set of bidding requirements or procedures that an industrial commission must adhere to in selling land to private individuals.

Although the Division, as an administrative agency of the State, is not empowered by law to render legal opinions, it would appear that the controlling statute, N.J.S.A. 40:55B-1 et seq. does not specifically require such commissions to adhere to any type of bidding procedure. The language in N.J.S.A. 40:55B-8 appears to indicate that the commission may accomplish the sale or lease of a municipality's vacant land to private individuals that, in the judgment of the commission, would be most advantageous to and in the best interest of the municipality and its citizens. Since N.J.S.A. 40:55B-1 et seq. appears to be the controlling statute, the bidding requirements pursuant to the Local Public Contracts Law (N.J.S. 40A:11-1 et seq.), and the Local Lands and Buildings Law (N.J.S. 40A:12-1 et seq.) would not appear to be applicable to industrial commissions.

Given the lack of specific statutory direction, it would be hoped that such commissions would hold such sales in an atmosphere of free and open competition which their own particular municipalities would have to operate if they were directly selling public lands to private individuals.



Robert E. Geisler, Esq.

May 13, 1981

The Division of Local Government Services hopes that our comments will be of assistance to you in this matter, and if we can be of any further assistance, please feel free to contact my office.

BS:hb



EXHIBIT D

State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY

DIVISION OF LAW

STATE HOUSE ANNEX

CN 112

TRENTON 08625

TELEPHONE 292-3212

JAMES R. ZAZZALI
ATTORNEY GENERAL

JUDITH A. YASKIN
ST ASSISTANT ATTORNEY GENERAL

MICHAEL R. COLE
ASSISTANT ATTORNEY GENERAL
DIRECTOR

THEODORE A. WINARD
ASSISTANT ATTORNEY GENERAL
IN CHARGE
ADMINISTRATIVE AGENCY ADVICE

April 28, 1981

Robert E. Geisler, Esq.
Counsel, Commission of Investigation
28 West State Street
Trenton, New Jersey 08608

Dear Mr. Geisler:

I am not aware of any written opinion issued by this office bearing on whether industrial commissions must comply with bidding requirements.

Very truly yours,

JAMES R. ZAZZALI
ATTORNEY GENERAL

By Theodore A. Winard
Theodore A. Winard
Assistant Attorney General

TAW:ad

STATEMENT OF CASH RECEIPTS & DISBURSEMENTS
SAVINGS ACCOUNT #171
TRUST CO. OF OCEAN COUNTY
FOR TWELVE MONTHS ENDED DECEMBER 31, 1972

CASH BALANCE - TRUST CO. OF O.C. - JAN. 1, 1972

RECEIPTS - DEPOSITS

SALE OF LAND -
LAKEWOOD QUALITY EGG CO.
HOWELL WOODWORK CO.
ESKA CHEMICAL CO.
DALE MARK CO.
BRADCO SUPPLY CO.
EXCELWOOD - ROSENBLUM & LANDMAN
SIGN COST - REIMBURSEMENT
SUDLER CONSTRUCTION CO.
INTEREST INCOME - SAVING ACCOUNT
DEPOSIT - BENNETT DEVELOPMENT CO.

DISBURSEMENTS - WITHDRAWALS

LAND ACQUISITION
IMPROVEMENTS
ROAD CONSTRUCTION - AIRPORT ROAD & TOWBIN AVE.
WATER LINES INSTALLED
DEPOSIT - EXCEPCO RETURNED
BRADCO SUPPLY CO.
HOME GUARDIAN CO. - TITLE CLEARING COSTS
COMMISSIONS - SALE OF LAND
HOWELL WOODWORK
LAKEWOOD QUALITY EGG CO.
ESKA CHEMICAL
RECORDING FEES

CASH BALANCE - TRUST CO. OF O.C. DECEMBER 31, 1972

\$
24,
3,
1,5
1,8
64
1,77
450
35.

EXHIBIT F

MOHEL AND VOGEL
CERTIFIED PUBLIC ACCOUNTANTS
320 THIRD STREET
LAKEWOOD, NEW JERSEY 08701
363-6500 AREA CODE 201

MAY 2, 1973

BOARD OF COMMISSIONERS
LAKEWOOD INDUSTRIAL COMMISSION

GENTLEMEN:


WE HAVE PREPARED THE ATTACHED STATEMENT OF CASH RECEIPTS AND
DISBURSEMENTS OF THE

LAKEWOOD INDUSTRIAL COMMISSION

SPECIAL ACCOUNT #17157 (SAVINGS ACCOUNT - TRUST CO. OF OCEAN
COUNTY) FOR THE YEAR ENDED DECEMBER 31, 1972. OUR EXAMINATION
WAS MADE IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS
AND INCLUDED SUCH TESTS OF THE ACCOUNTING RECORDS AND SUCH OTHER
AUDITING PROCEDURES AS WE CONSIDERED NECESSARY.

IN OUR OPINION, THE ACCOMPANYING STATEMENT OF CASH RECEIPTS AND
DISBURSEMENTS PRESENT FAIRLY THE RECORDED TRANSACTIONS OF THE
LAKEWOOD INDUSTRIAL COMMISSION SPECIAL ACCOUNT #17157 FOR THE
YEAR ENDED DECEMBER 31, 1972.

RESPECTFULLY SUBMITTED,


CERTIFIED PUBLIC ACCOUNTANTS

STATEMENT OF CASH RECEIPTS & DISBURSEMENTS
SAVINGS ACCOUNT #171-7
TRUST CO. OF OCEAN COUNTY
FOR TWELVE MONTHS ENDED DECEMBER 31, 1972

CASH BALANCE - TRUST CO. OF O.C. - JAN. 1, 1972

\$ 44,723.51

RECEIPTS - DEPOSITS

OFFER OF LAND -	
LAKWOOD QUALITY EGG CO.	\$ 35,500.00
H. WELLS WOODWORK CO.	12,929.00
ERNA CHEMICAL CO. - REBATE	9,000.00
DALE HARRIS CO. - (REBATE)	9,000.00
BRADCO SUPPLY CO.	15,015.00
E. KILWOOD - ROSENBLUM & LANDMAN	6,175.00
SIGN CO. - REIMBURSEMENT	
SUPER CONSTRUCTION CO.	1,175.00
INTEREST INCOME - SAVING ACCOUNT	3,327.04
DEPOSIT - BENNETT DEVELOPMENT CO.	1,325.00
	<u>93,446.04</u>

\$158,175.55

DISBURSEMENTS - WITHDRAWALS

LAND ACQUISITION	\$ 5,850.00
IMPROVEMENTS	
ROAD CONSTRUCTION - AIRPORT ROAD & TOWBIN AVE.	24,154.23
WATER LINES INSTALLED	3,539.00
DEPOSIT - EXCEPION RETURNED	1,527.75
BRADCO SUPPLY CO.	1,825.00
HOME GUARDIAN CO. - TITLE CLEARING COSTS	
COMMISSIONS - SALE OF LAND	647.50
H. WELLS WOODWORK	1,775.00
LAKWOOD QUALITY EGG CO.	450.00
ERNA CHEMICAL	35.00
RECORDING FEES	<u>39,833.48</u>

\$ 98,342.07

CASH BALANCE - TRUST CO. OF O.C. DECEMBER 31, 1972

CHAPTER 55B

INDUSTRIAL COMMISSION

- Sec.
- 40:55B-1. Definitions.
 - 40:55B-2. Legislative finding; purpose of chapter.
 - 40:55B-3. Creation; official title.
 - 40:55B-4. Body corporate; number of members.
 - 40:55B-5. Members and officers.
 - 40:55B-6. Employees; offices.
 - 40:55B-7. General powers.
 - 40:55B-8. Purposes, functions, and additional powers.
 - 40:55B-9. Study of tax structure.
 - 40:55B-10. Limitations on powers; appropriations; records and reports.

Cross References

Creation of local industrial commission, see § 40:160-1.

40:55B-1. Definitions

As used in this title:

"Governing body" means and includes the board or body in each municipality empowered by statute to exercise general legislative power therein. In cities having a board of finance such board shall be considered the "governing body" for the purpose of this chapter.

"Mayor" means and includes the chief executive of the municipality whether the official designation of his office be mayor, city manager or otherwise.

"Commission" means and includes an industrial commission created by the governing body of any municipality pursuant to the provisions of this chapter.

Historical Note

Source. L.1936, c. 154, § 1, p. 358.

Library References

Municipal Corporations § 177. Words and Phrases (Perm.Ed.)
C.J.S. Municipal Corporations § 551
et seq.

40:55B-2. Legislative finding; purpose of chapter

It is hereby found and declared as follows:

- a. That unless many municipalities are to accept decadence and obsolescence as their inevitable lot, they must thoroughly

INDUSTRIAL COMMISSION 40:55B-4

analyze their position in the industrial structure of the country and then completely mobilize their potential resources for efficient manufacture; that the location of industry today is more and more the result of an impartial, scientific study of basic economic conditions; that one of the basic difficulties of many of the municipalities of this state is that they do not know themselves; that they have little appreciation of either their economic strength or their economic weakness; that they have never studied impartially either the economic advantages or the economic disadvantages of their own peculiar geographic position; that there had been an abundance of publicity campaigns and boosting campaigns founded upon superficial generalities and not well designed to enlighten the prospective manufacturer; that a frank inventory of the industrial life of New Jersey communities as a deliberate and sober inquiry of scientific character is necessary to ascertain their real needs and to determine their potential resources for efficient manufacture with a constructive program for sustained and selective growth and a long term policy of industrial rehabilitation and development is necessary.

b. That there are now many thousands of unemployed persons within the state of New Jersey, who, if profitably employed, would create annual pay rolls of millions of dollars; that the re-employment of the present unemployed would quicken and improve social conditions.

Historical Note

Source. L.1936, c. 154, § 2, p. 359.

40:55B-3. Creation; official title

The governing body of each municipality is hereby authorized to create, by ordinance, a local industrial commission to be known as "the industrial commission of (here name of the municipality)".

Historical Note

Source. L.1936, c. 154, § 3, p. 359.

40:55B-4. Body corporate; number of members

Any commission so created shall consist of seven members and shall be a body corporate, having the powers hereinafter enumerated.

Historical Note

Source. L.1936, c. 154, § 4, p. 360.

40:55B-5 MUNICIPALITIES GENERALLY**40:55B-5. Members and officers**

The members of each commission shall be appointed by the mayor of the municipality of its creation. Each member shall be, for the last five years preceding his appointment, a citizen of the United States and a qualified voter of the state of New Jersey. One member shall be appointed for one year, one member for two years, one member for three years, two members for four years and two members for five years. At the expiration of each of the above terms, the new member or members shall be appointed for a term of five years. Vacancies in the membership of any commission, occurring for whatever cause, shall be promptly filled by appointment by the mayor for the unexpired term thereof. Members shall serve for their respective terms and until their successors are appointed and qualify.

— Each member shall be chosen with a special view to his qualifications and fitness for service on the commission. He shall have had experience in industry or commerce and shall be conversant with the industrial needs and facilities of his commission's municipality, and shall be of known devotion to public service.

There shall be appointed upon said commission, unless local conditions shall otherwise require, at least one thoroughly competent representative of mill owners and operators of mill properties; a representative of labor; a representative of the clearing house or banks of said municipality; a representative of the chamber of commerce; a representative of the service clubs of such municipality; a representative of the legal profession; and a representative of a recognized real estate dealer's association.

No member, officer or employee of any commission shall be interested directly or indirectly in any contracts for work or materials used by the commission, or in any sales, leases or agreements in connection with lands, buildings or other property owned or controlled by it, or in any fees or compensation of any kind paid to any broker, architect, engineer, merchant or other person doing business with the commission or in any other transaction of or with the commission, or the benefits or profits thereof.

Each member and officer of the commission shall, before assuming office, take and subscribe an oath that he will faithfully and impartially discharge the duties of his office.

The members and officers of the commission shall serve without compensation, but each shall receive his actual disbursements for his expenses in performing his duties.

INDUSTRIAL COMMISSION 40:55B-6

The members of the commission shall choose annually from among its members a chairman or president, and such other officers as it may deem necessary. The mayor of the municipality served by the commission, shall be ex officio a member thereof.

A majority of the members shall constitute a quorum of the board.

The members and officers may be required to furnish bonds to the commission, to secure the faithful discharge of their duties, in form, amount and with such surety as may from time to time be required by resolution of the governing body of the municipality served by the commission.

Historical Note

Source. L.1936, c. 154, § 5, p. 360.

40:55B-6. Employees; offices

In so far as may be practicable, the employees and assistants required by the commission shall be recruited from the public officers and employees of the municipality served by the commission. The municipal counsel shall be the counsel to the commission; the municipal engineer shall be the engineer of the commission; and the several departments of the municipal government shall be available to the commission for the purposes of the commission's business. Municipal employees serving the commission shall do so without compensation other than their regular compensation as employees of the municipality. The commission shall, from time to time, make known to the mayor of the municipality served by it, its wants in the nature of services by employees of the municipality, and the mayor shall designate which of the municipality's employees, if any, shall render such services.

To the extent that the commission shall deem it necessary to carry on its function, and to the extent that it shall consider the services of existing employees of the municipality insufficient for its purposes, it may employ such additional employees or services and at such compensation as may be approved by resolution of the governing body of the municipality. Its requirements in this direction shall be submitted from time to time in writing to such governing body.

The civil service laws, rules and regulations of the state, applicable to the municipality served by the commission, shall govern the appointment of employees of the commission. Such laws, rules and regulations shall not be deemed to prevent the use of services of existing employees, without extra compensation there-

40:55B-6 MUNICIPALITIES GENERALLY

for, nor shall the use of such services operate to enlarge the civil service rights or the status of the municipal employee rendering the same.

The commission shall have and maintain a suitable office, where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at such times and under such reasonable regulations as the commission shall determine. If practicable, existing office facilities of the municipality served by the commission shall be used without charge by the municipality, and the office and similar equipment of the municipality shall, wherever possible, be used by and be made available for the use of the commission, without charge.

Historical Note

Source. L.1936, c. 154, § 6, p. 361.

40:55B-7. General powers

To effectuate its purposes, any commission created under this chapter shall have the following powers:

- a. To sue and be sued.
- b. To adopt and use an official seal.
- c. To adopt suitable by-laws for the management of its affairs.
- d. To determine the qualifications and duties of its employees, and to fix, subject to the foregoing provisions hereof, their compensation.
- e. To enter into contracts.

Historical Note

Source. L.1936, c. 154, § 7, p. 363.

40:55B-8. Purposes, functions, and additional powers

Every commission created under this chapter shall constitute the corporate instrumentality of the municipality, by which it is created, for the following purposes:

- a. To inquire into, survey and publicize the extent, advantages and utility of the vacant lands of such municipality, whether municipally owned or otherwise.
- b. To classify such vacant lands according to their adaptability for the settlement thereon of various types of industrial enterprises.

INDUSTRIAL COMMISSION 40:55B-10

c. To study and analyze the various industries of the nation and, to the extent it deems necessary for its purposes, the industries of other nations, with a view to ascertaining the opportunities for the industrial expansion of the municipality. In this connection the reports, records, statistics, compenda and similar documents of existing federal, state, county, municipal and other governmental and public agencies, as well as of responsible private institutions, boards, agencies and similar bodies interested in the compilation of the information relating to industry, shall be resorted to, wherever possible, in order to avoid unnecessary original research and gathering of source material.

d. To advertise the industrial advantages and opportunities of its municipality and the availability of real estate within the municipality for industrial settlement and to encourage and accomplish such industrial settlement within the municipality.

e. To solicit the several industries to purchase or lease the vacant lands and property of or in the municipality.

f. To accomplish the sale or lease of the municipality's vacant lands to industries whose settlement thereon is best calculated, in the judgment of the commission, to advance the interests of the municipality and of its citizens and inhabitants.

g. To acquire title to vacant land owned by the municipality for the purpose of resale or lease to industries whose presence within the municipality will benefit in the judgment of the commission, its citizens and inhabitants.

Historical Note

Source. L.1936, c. 154, § 8, p. 363.

40:55B-9. Study of tax structure

The commission shall make a study of the tax structure with a view to reducing the tax burden of the municipality.

Historical Note

Source. L.1936, c. 154, § 9, p. 364.

40:55B-10. Limitations on powers; appropriations; records and reports

No commission created under the authority of this chapter shall have any power of condemnation or eminent domain.

No commission created under the authority of this chapter shall have power to pledge the credit of the municipality by which

40:55B-10 MUNICIPALITIES GENERALLY

it is created, or of any other municipality, or of the state of New Jersey, or to create any debt against or in any manner act as the agent of such municipality, or of the state of New Jersey.

Such commission shall have power and authority to make an economic survey, analyzing the present and potential possibilities of the municipality, with a view to ascertaining its industrial needs, determining its resources for efficient manufacture and exploring its probable sphere in the future development of the state and nation. In carrying out such a survey, the commission shall study the needs of existing local industries so that means may be evolved to enable them to compete more successfully with competitors in other states; and more particularly how they might successfully round out and enlarge the products manufactured within the municipality with a view to diversifying local industry and stabilizing employment conditions. The commission may make any investigation deemed necessary to enable it effectually to carry out the provisions of this chapter and for that purpose the commission may take and hear proofs and testimony and compel the attendance of witnesses and the production of books, papers, records and documents, including public records, and its authorized agents may enter upon any lands as in its judgment may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this chapter.

Each commission shall make an annual report to the municipality by which it has been created, setting forth in detail its operations and transactions for the preceding twelve months.

Nothing in this chapter provided and no authority given to or exercised by any commission created under this chapter shall impair or invalidate in any way any funded indebtedness of the municipality by which it has been created, nor impair the provisions of law regulating the payment into sinking funds of revenues derived from municipal property, or dedicating the revenues derived from any municipal property to a specific purpose.

The creation of a commission by a municipality shall not be deemed to limit in any manner the municipality's right to deal with its vacant lands, or to sell or lease the same, independently of such commission, as heretofore, but the powers conferred upon such municipality and commission by this chapter shall be in addition to any rights or powers now possessed by such municipality with reference to its vacant lands or other properties.

The governing body of such municipality creating a commission under this chapter may appropriate annually, during the

INDUSTRIAL COMMISSION 40:55B-10

life of its commission, such sums as may be reasonably necessary to conduct the normal operations of the commission, but no moneys so appropriated shall be used by a commission for the construction of any building or to finance such construction. The commission shall annually present to the chief financial officer of the municipality its budget for operations for the ensuing year, reflecting therein all unexpended balances on hand from previous appropriations received from the municipality, at the same time and in the same manner and form as is required by several departments of the municipality's government, and the budget so submitted shall be acted upon as in the case of the budgets of such several municipal departments, and, being so acted upon, shall be made a part of the municipality's budget. No more than twenty-five thousand dollars shall be appropriated for any commission for any year. Each commission shall keep complete and accurate records of its accounts, and separate accounts shall be kept for its normal functions. No commission shall exceed its budget, and moneys received from the municipality by which it has been created shall be expended only for the purposes for which they have been appropriated.

Historical Note

Source. L.1936, c. 154, § 10, p. 364.

