



AGENDA DOCUMENT NO. 16-04-A

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, DECEMBER 17, 2015

PRESENT:

Ann M. Ravel, Chair, presiding

Matthew S. Petersen, Vice Chairman

Lee E. Goodman, Commissioner

Caroline C. Hunter, Commissioner

Steven T. Walther, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director

Daniel Petalas, Acting General Counsel

Shawn Woodhead Werth, Secretary and Clerk

Chair Ann M. Ravel called the Federal Election Commission to order in an open meeting at 10:21 A.M. on Thursday, December 17, 2015 with a quorum present.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider the following:
Agenda Document Nos. 15-68-A, 15-68-B, 15-69-A, 15-69-B, 15-65-A, and 15-66-A-1.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for October 29, 2015
Agenda Document No. 15-64-A

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve the minutes for the meeting held on October 29, 2015 as set forth in Agenda Document No. 15-64-A.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

II. REMARKS BY CHAIR RAVEL

Chair Ravel extended her warmest thanks to FEC employees for their work on behalf of the public. She said that each employee's efforts to ensure that campaign finance laws are understood and followed and that the money spent on

funding elections is disclosed, fosters public trust in the political process. She mentioned the following people as emblematic of the FEC staff: Acting General Counsel Daniel Petalas; Commission Secretary Shawn Woodhead Werth and Deputy Secretary Shelley Garr; Mr. Darnell Rose; Press Officer Judy Ingram; Communications Specialist Kathy Carothers; Ms. Ruth Godding; and Mr. Eugene Lynch and Mr. Kevin Hancock who coordinate the FEC softball team. While she acknowledged that morale is an issue, she expressed her hope that the Commission can find ways to continue to encourage the great asset it has in its staff. She stated that no accomplishment of 2015 had a greater impact than the revamping of the Commission's website. She acknowledged that the Commission also made positive steps forward in being less insular, more transparent, and more participatory, and in permitting the public, for the first time, to provide their views at a public hearing. She hoped the Commission will view its work as relevant to the citizens of this country and to its stakeholders. Lastly, she thanked her staff, in particular Ms. Sarah Rozensky and Ms. Laura Basford, for their invaluable work, both of whom care passionately about campaign finance law.

Chair Ravel recognized Commissioner Weintraub for a moment of personal privilege. Commissioner Weintraub concurred with Chair Ravel on the website advances and recognized Mr. Wei Luo's work on this project. She also thanked Ms. Nicole Kovite Zeitler, her personal counsel, who served with intelligence,

grace, and good humor. Ms. Zeitler is leaving the Commission to litigate disability rights cases at the Department of Justice. Commissioner Weintraub said that she has been enriched by all of Ms. Zeitler's great skills and wished her well in her new endeavor.

III. DRAFT ADVISORY OPINION 2015-13

Senator Harry Reid by Marc E. Elias, Esq.,
Jonathan S. Berkon, Esq., and David J. Lazarus, Esq.

Agenda Document No. 15-68-A (Draft A)
(Submitted Late)

Agenda Document No. 15-68-B (Draft B)
(Submitted Late)

(Executive Assistant Laura Basford is recused.)

Chair Ravel stated that Commissioners Walther and Weintraub were recused from this matter and will not participate in the discussion.

Chair Ravel recognized Mr. Elias and Mr. Berkon, requestor's counsel, who were available to answer Commissioners' questions.

Chair Ravel recognized Ms. Jessica Selinkoff of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and the Commission regulations to Senator Reid's request. Senator Reid is retiring after decades in the Senate, including eight years as Senate Majority Leader, and asks two questions:

1) whether he may use campaign funds to pay the costs of a full-time assistant after his retirement for certain enumerated tasks; and 2) whether his leadership PAC may pay the winding-down costs of his Senate office. Ms. Selinkoff summarized the distinctions between the two Drafts.

Mr. Elias and Mr. Adav Noti of the General Counsel's Office participated in the discussion that followed. In response to a Commissioner's request, Mr. Elias stated that the requestor was amenable to an extension should the Commission decide to hold this matter over to the next meeting.

Discussion continued.

This matter was held over to the January 14, 2016 open meeting.

IV. DRAFT ADVISORY OPINION 2015-14

Hillary for America by Marc E. Elias, Esq.
and Jacquelyn K. Lopez, Esq.

Agenda Document No. 15-69-A (Draft A)
(Submitted Late)

Agenda Document No. 15-69-B (Draft B)
(Submitted Late)

(Executive Assistant Laura Basford is recused.)

Chair Ravel recognized Mr. Elias and Ms. Lopez, requestor's counsel, who were available to answer Commissioners' questions.

Commissioners Walther and Weintraub rejoined the meeting.

Chair Ravel recognized Mr. Sean Wright of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and the Commission regulations to Hillary for America's request. The requestor asks, through five distinct questions, whether DePauw University may provide a stipend and academic credit to a student who interned in the requestor's compliance and vetting departments. Mr. Wright summarized both Drafts.

Mr. Elias, Ms. Lopez, and Mr. Noti of the General Counsel's Office participated in the discussion that followed. In response to a Commissioner's request, Mr. Elias stated that the requestor was amenable to an extension should the Commission decide to hold this matter over to the next meeting.

Chair Ravel stated that this matter will be held over to the January 14, 2016 open meeting.

V. RULEMAKING PETITION: INDEPENDENT SPENDING BY CORPORATIONS, LABOR ORGANIZATIONS, FOREIGN NATIONALS, AND CERTAIN POLITICAL COMMITTEES (CITIZENS UNITED)

Memorandum from Chair Ann M. Ravel and
Commissioner Ellen L. Weintraub dated December 15, 2015

Agenda Document No. 15-65-A
(Submitted Late)

Chair Ravel recognized Commissioner Goodman who asked the General Counsel's Office to explain procedurally if it was in order for the 6-member Commission to vote on these petitions. Mr. Noti stated that the position of the

General Counsel's Office is that, regardless of what may or may not have been the issues with the prior petition, that petition was withdrawn. New petitions which were filed are separate, stand-alone petitions unrelated to the first one.

Therefore, those concerns would not be an issue unless something else transpired of which the General Counsel's Office was unaware.

Chair Ravel emphasized that the importance of rulemakings is to provide guidance to the public and to assist with compliance of the law. She made clear when she provided the fourth vote for the *Citizens United* rulemaking that there was unfinished business. Now, however, her colleagues do not think that it is important to have clarification of the rules on some of the most significant issues pending before the Commission. She stated that the Commission's coordination rules, created prior to the existence of super PACs, are outdated, and that because the Commission has failed to address some of the most significant issues since the *Citizens United* decision, it should open a rulemaking to address them.

Chair Ravel recognized Commissioner Weintraub who stated that politics have changed in the last five years and, according to a recent poll, 85% of Americans believe that money has too much influence and that the current rules are not working. She said that it is quite striking the lengths to which some Commissioners have gone to dissuade those Commissioners like herself who do support these issues. She believes they are in sync with the American people, because the affect of the *Citizens United* decision is fewer donors with less

transparency. Thus, she continued, the recommendations in the petitions would be a step in the right direction; it would be irresponsible of the Commission to refuse to open its door to comments.

Discussion followed.

Chair Ravel recognized Commissioner Weintraub who MOVED that

Whereas on June 19, 2015 and June 22, 2015, the Commission received petitions from Make Your Laws PAC, Inc., Make Your Laws Advocacy, Inc. and Public Citizen requesting that the Commission revise its rules to respond to the January 2010 *Citizens United v. FEC* Supreme Court decision;

Whereas the Commission received approximately 11,759 comments from 11,769 commenters on the Notice of Availability published in the Federal Register on July 29, 2015;

Whereas 11,414 commenters (nearly 97% of the total commenters) supported the petitions and urged the Commission to open a rulemaking as requested in the petitions;

Whereas numerous studies show that the current campaign finance system is diminishing public trust in the democratic process; [see footnote below]

[See, e.g., *Americans' Views on Money in Politics*, N.Y. Times, June 1, 2015, available at <http://www.nytimes.com/interactive/2015/06/02/us/politics/money-in-politics-poll.html> (finding that 84 percent of Americans believe that money has too much influence on politics, and that 58 percent are pessimistic that anything will be done to solve the problem).]

Whereas in response to the *Citizens United* decision and its progeny, the Commission has made "little effort to ensure that remaining valid provisions of the Act continue to be implemented consistent with congressional intent"; [see footnote below]

[Comment of the Brennan Center for Justice on REG 2015-04 at 4.]

Whereas, as a result, "our political system is even more vulnerable to corruption and less transparent than it ought to be"
[see footnote below]

[*Id.*]

Open a rulemaking and that the Office of General Counsel draft a Notice of Proposed Rulemaking that proposes to revise Commission regulations as follows:

1. Require full public disclosure of corporate and labor organization independent spending, consistent with both the *Citizens United* decision and the Act's requirement that outside spending groups disclose their donors.
2. Clarify that the prohibition on foreign national campaign-related spending restricts such spending by U.S. corporations owned or controlled by a foreign national.
3. Clarify that corporations and labor organizations are prohibited from coercing their employees and members into providing financial or other support for the corporation's or labor organization's independent political activities.
4. Require that the expenditures made by super PACs and other outside spending groups are truly independent of federal candidates, consistent with the *Citizens United* decision and its progeny.

The motion failed by a vote of 3-3 with Commissioners Ravel, Walther, and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, and Petersen dissented.

Mr. Noti of the General Counsel's Office participated in the discussion that followed concerning a notice of disposition and stated that the General Counsel's Office will prepare a memorandum for the Commission on this matter.

Discussion followed concerning whether to consider Items VI (Rulemaking Priorities and Proposals), VII (Commission Documents/Public Disclosure Policies), and VIII (Notice of Proposed Rulemaking on Reporting Multistate Independent Expenditures and Electioneering Communications in Presidential Primary Elections) today or at a future meeting.

Chair Ravel stated that Item VI would be discussed next.

VI. RULEMAKING PRIORITIES AND PROPOSALS

Memorandum from Commissioner Lee E. Goodman dated October 20, 2015 – Regulatory Relief for Political Parties

Agenda Document No. 15-54-A

Memorandum from Commissioner Lee E. Goodman dated November 16, 2015 – Regulatory Relief for Political Parties – Revised Resolution

Agenda Document No. 15-54-A-1

REG 2014-10 Outline of Draft NPRM Implementing Party Segregated Accounts

Agenda Document No. 15-54-B

REG 2013-01 Draft Notice of Proposed Rulemaking on Technical Modernization

Agenda Document No. 15-54-C

Memorandum from Chair Ann M. Ravel and
Commissioner Ellen L. Weintraub dated November
16, 2015 – Coordination Rulemaking Proposal

Agenda Document No. 15-54-D

(Held over from the October 29 and
November 10 – 17, 2015 meetings)

Chair Ravel introduced this matter.

Discussion followed concerning Regulatory Relief for Political Parties
(Agenda Document Nos. 15-54-A and 15-54-A-1) and Coordination Rulemaking
Proposal (Agenda Document No. 15-54-D).

Chair Ravel recognized Commissioner Goodman who asked if Commissioner
Weintraub's motion concerning Agenda Document Nos. 15-54-A, 15-54-A-1, and
15-54-D from the November open meeting was still on the table. Chair Ravel
recognized Secretary and Clerk Shawn Woodhead Werth who stated that
Commissioner Weintraub withdrew her motion at that meeting.

Discussion continued.

Chair Ravel recognized Commissioner Weintraub who renewed her motion
and

MOVED to direct the Office of General Counsel to prepare a
rulemaking document that would cover the issues set forth
in Agenda Document Nos. 15-54-A, 15-54-A-1, and 15-54-D.

Discussion resumed.

The motion failed by a vote of 3-3 with Commissioners Ravel, Walther, and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, and Petersen dissented.

Discussion resumed later in the meeting regarding additional documents for Item VI (see page 13).

VII. COMMISSION DOCUMENTS / PUBLIC DISCLOSURE POLICIES

Memorandum from Commissioner Lee E. Goodman
dated May 14, 2015

Agenda Document No. 15-27-A

Memorandum from Commissioner Lee E. Goodman
dated November 16, 2015

Agenda Document No. 15-27-A-1

Memorandum from the Deputy General Counsel, Law
and Special Counsel to the General Counsel dated
August 5, 2015

Agenda Document No. 15-27-B

Memorandum from the Acting General Counsel dated
October 21, 2015

Agenda Document No. 15-27-C

(Held over from the July 16, August 11, September 17,
October 1, October 29, and November 10-17, 2015 meetings)

Chair Ravel introduced this matter and recognized Commissioner Goodman who requested that Item VII be held over.

Mr. Lawrence Calvert of the General Counsel's Office participated in the discussion that followed.

Chair Ravel recognized Acting General Counsel Daniel Petalas who had a parliamentary question on whether the Commission still intended to address the other documents for Item VI (Draft Notice of Proposed Rulemaking on Technical Modernization and Outline of Draft NPRM Implementing Party Segregated Accounts).

Discussion continued.

Chair Ravel stated that Item VII will be held over to a future meeting at Commissioner Goodman's request.

VI. RULEMAKING PRIORITIES AND PROPOSALS (continued)

Chair Ravel reintroduced Item VI.

Mr. Noti of the General Counsel's Office participated in the discussion that followed concerning the Draft Notice of Proposed Rulemaking on Technical Modernization (Agenda Document No. 15-54-C) and the Outline of Draft NPRM Implementing Party Segregated Accounts (Agenda Document No. 15-54-B).

Chair Ravel recognized Commissioner Goodman who

MOVED to refer the Technological Modernization Rulemaking and Agenda Document No. 15-54-B to the Regulations Committee.

Mr. Noti of the General Counsel's office participated in the discussion that continued.

Chair Ravel recognized Commissioner Goodman who re-stated his motion.

Discussion resumed.

Chair Ravel recognized Commissioner Goodman who amended his motion as follows:

MOVED to keep the Draft Notice of Proposed Rulemaking on Technological Modernization on the public agenda and for him to distribute a memorandum proposing changes to be discussed at the Table at the next public meeting as well as before the public meeting; and refer the Outline of Draft NPRM Implementing Party Segregated Accounts to the Regulations Committee for further work.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the motion.

VIII. NOTICE OF PROPOSED RULEMAKING ON REPORTING MULTISTATE INDEPENDENT EXPENDITURES AND ELECTIONEERING COMMUNICATIONS IN PRESIDENTIAL PRIMARY ELECTIONS

Agenda Document No. 15-50-A

Agenda Document No. 15-50-B

(Held over from the October 1, October 29, and November 10 – 17, 2015 meetings)

Chair Ravel introduced this matter.

Mr. Noti of the General Counsel's Office participated in the discussion that followed.

Chair Ravel recognized Commissioner Hunter who

MOVED to approve Agenda Document No. 15-50-B.

Discussion continued.

The motion failed by a vote of 3-3 with Commissioners Goodman, Hunter, and Petersen voting affirmatively for the motion. Commissioners Ravel, Walther, and Weintraub dissented.

IX. LEGISLATIVE RECOMMENDATIONS

Agenda Document No. 15-67-A
(Submitted Late)

Chair Ravel stated that this matter was resolved prior to the meeting.

X. 2016 MEETING DATES

Memorandum from Vice Chairman Matthew S. Petersen
dated December 16, 2015

Agenda Document No. 15-66-A-1
(Submitted Late)

Chair Ravel introduced this matter.

Discussion followed.

Chair Ravel recognized Commissioner Walther who

MOVED to approve Agenda Document No. 15-66-A-1.

Discussion continued.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

XI. ELECTION OF OFFICERS

A. Chairman

Chair Ravel recognized Commissioner Walther who

MOVED to elect Vice Chairman Matthew S. Petersen to serve as Chairman of the Federal Election Commission for 2016.

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Ravel, Walther, and Weintraub voting affirmatively for the decision. Commissioner Petersen did not vote.

B. Vice Chairman

Chair Ravel recognized Commissioner Hunter who

MOVED to elect Commissioner Steven T. Walther to serve as Vice Chairman of the Federal Election Commission for 2016.

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Ravel, and Weintraub voting affirmatively for the decision. Commissioner Walther did not vote.

In recognition of his election as the 2016 Chairman, Chair Ravel presented Vice Chairman Petersen with the gift given to her by then-Chairman Goodman when she became Chair (a gift received from a visiting African delegation). Chair Ravel said that she and Vice Chairman Petersen could always talk about issues in a collegial and cordial manner which she very much appreciated. She

stated that he will make a fantastic Chairman, and she added that it has been an honor to work with him this year.

Vice Chairman Petersen said that he has greatly appreciated Chair Ravel for her commitment to her principles, friendship, perspectives, talents, good sense of humor, and wide-range of interests. He thanked her for her excellent job and hard work as Chair and looked forward to continuing to work with her in 2016. On behalf of his colleagues, he presented her with a leather folio with the FEC seal and an engraved pen and pencil set.

Chair Ravel complimented Vice Chairman Petersen's staff on how well they worked with her staff to facilitate the ability to get things done. Vice Chairman Petersen also expressed his appreciation for the good personal interactions between their staffs.

XII. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission,
the meeting adjourned at 2:37 P.M.

Signed:

Ann M. Ravel
Chair of the Commission (2015)

Attest:

Shawn Woodhead Werth
Secretary and Clerk of the Commission