



AGENDA DOCUMENT NO. 06-34

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, APRIL 20, 2006**

PRESENT:

Michael E. Toner, Chairman, presiding

Robert D. Lenhard, Vice Chairman

David M. Mason, Commissioner

Hans A. von Spakovsky, Commissioner

Ellen L. Weintraub, Commissioner

Robert J. Costa, Acting Staff Director

Lawrence H. Norton, General Counsel

Mary W. Dove, Secretary

Chairman Michael E. Toner called the Federal Election Commission to order in an open meeting at 10:20 A.M. on Thursday, April 20, 2006, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for April 7, 2006
Agenda Document No. 06-27**

Chairman Toner recognized Vice Chairman Lenhard, who

MOVED to approve the minutes for the Open Meeting of Friday, April 7, 2006, as submitted in Agenda Document No. 06-27.

The motion carried on the vote of 5-0 with Commissioners Lenhard, Mason, Toner, von Spakovsky, and Weintraub voting affirmatively.

II. ADVISORY OPINIONS

**A. Advisory Opinion 2006-07
Representative J. D. Hayworth on behalf of
J. D. Hayworth for Congress**

Agenda Document No. 06-28

Chairman Toner recognized Mr. Duane Pugh of the General Counsel's Office who presented draft Advisory Opinion 2006-07 con-

II. ADVISORY OPINIONS (continued)

A. Advisory Opinion 2006-07 (continued)

cerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to placing material promoting sales of a book Mr. Hayworth wrote entitled *Whatever It Takes* on the committee's website. During his presentation, Mr. Pugh noted the following amendment: Page 3, Line 17, change the beginning of the cite from 113.2 to 113.1.

A discussion followed.

Chairman Toner recognized Commissioner Mason, who

MOVED to approve draft Advisory Opinion 2006-07, as set forth in Agenda Document No. 06-28, subject to the amendment noted above.

The motion carried on the vote of 4-1 with Commissioners Lenhard, Mason, Toner, and von Spakovsky voting affirmatively.

Commissioner Weintraub dissented.

B. Advisory Opinion 2006-08
Matthew Brooks by counsel, Craig Engle

Agenda Document No. 06-32 (submitted late)

Chairman Toner recognized Vice Chairman Lenhard, who

II. ADVISORY OPINIONS (continued)

B. Advisory Opinion 2006-08 (continued)

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 06-32.

The motion carried on the vote of 5-0 with Commissioners Lenhard, Mason, Toner, von Spakovsky, and Weintraub voting affirmatively.

Chairman Toner recognized Mr. Daniel Abramson of the General Counsel's Office who presented draft Advisory Opinion 2006-08 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to an as-yet unnamed corporation to be formed by Mr. Brooks which intends to collect and forward contributions from individuals at their request to political committees, Federal candidates, and other entities.

Following discussion, it was agreed without objection to hold this matter over in order to secure additional information from the requestor.

C. Advisory Opinion 2006-09

The American Institute for Certified Public Accountants and The American Institute for Certified Public Accountants PAC by counsel, Russell L. Smith

II. **ADVISORY OPINIONS** (continued)

C. **Advisory Opinion 2006-09** (continued)

Agenda Document No. 06-29

Agenda Document No. 06-29-A (submitted late)

Chairman Toner recognized Vice Chairman Lenhard, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 06-29-A.

The motion carried on the vote of 5-0 with Commissioners

Lenhard, Mason, Toner, von Spakovsky, and Weintraub voting affirmatively.

The Chairman recognized Mr. Tony Buckley of the General Counsel's Office who presented two proposed drafts of Advisory Opinion 2006-09 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the American Institute of Certified Public Accountants Political Action Committee's treatment of checks received from partnerships.

Chairman Toner recognized Commissioner von Spakovsky who reviewed his proposed revisions to Draft B, as submitted in Agenda Document No. 06-29-A.

A discussion followed.

II. ADVISORY OPINIONS (continued)

C. Advisory Opinion 2006-09 (continued)

Following discussion, Chairman Toner recognized Commissioner von Spakovsky, who

MOVED to approve Agenda Document
No. 06-29-A.

The motion failed on a vote of 3-2 with Commissioners Mason, Toner, and von Spakovsky voting affirmatively. Commissioners Lenhard and Weintraub dissented.

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The meeting recessed at 11:00 A.M. and reconvened at 11:10 A.M. with a quorum present.

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II. ADVISORY OPINIONS (continued)

C. Advisory Opinion 2006-09 (continued)

There was a discussion of Draft A but a consensus was not reached; therefore, no additional motions were introduced.

The Chairman recognized Ms. Rosemary Smith of the General Counsel's Office who explained the process of notifying the requestor when the Commission is unable to issue an advisory opinion. Ms. Smith

II. ADVISORY OPINIONS (continued)

C. Advisory Opinion 2006-09 (continued)

stated that there was a standard letter issued in the past which referred to the agenda documents considered, the votes taken, and thereby concluding the Commission's consideration of the advisory opinion.

It was agreed without objection that the draft letter would be circulated to the Commission for approval prior to its issuance to the requestor.

D. Advisory Opinion 2006-11
Washington Democratic State Central Committee
by counsel, Marc E. Elias and Caroline P. Goodson

Agenda Document No. 06-30

Agenda Document No. 06-30-A (submitted late)

Chairman Toner recognized Vice Chairman Lenhard, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 06-30-A.

The motion carried on the vote of 5-0 with Commissioners Lenhard, Mason, Toner, von Spakovsky, and Weintraub voting affirmatively.

Chairman Toner recognized Mr. Jonathan Levin of the General Counsel's Office who presented draft Advisory Opinion 2006-11

II. **ADVISORY OPINIONS** (continued)

D. **Advisory Opinion 2006-11** (continued)

concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the allocation of payments for mass mailings that expressly advocate the election of one clearly identified Federal candidate, as well as the elections of other candidates of the Democratic party who are referred to only generically.

Chairman Toner reviewed Agenda Document No. 06-30-A which he authored.

The Chairman recognized Commissioner Weintraub who offered the following amendments to Agenda Document No. 06-30-A:

1) Footnote 6 to read, "The Commission emphasizes that this advisory opinion response is limited to mass mailings containing a reference to a clearly identified Federal candidate along with a generic reference to other candidates of the same party. This opinion does not address the rules that govern mass mailings containing references to one or more non-Federal Candidates."

2) Delete the language on Page 5, beginning with the word "benefits" on Line 2 through Line 7 and replace with the language in Agenda Document No. 06-30 on Page 5, beginning with the word "serves" on Line 2 through the remainder of the paragraph on Line 13; and include Footnotes 3 and 4.

II. **ADVISORY OPINIONS** (continued)

D. **Advisory Opinion 2006-11** (continued)

There was a discussion.

The Chairman recognized Commissioner Weintraub, who

MOVED to approve draft Advisory Opinion 2006-11, as submitted in Agenda Document No. 06-30-A, subject to the amendments noted above.

The motion carried on the vote of 4-1 with Commissioners Mason, Toner, von Spakovsky, and Weintraub voting affirmatively. Commissioner Lenhard dissented.

E. **Advisory Opinion 2006-12**
International Association of Machinists and Aerospace Workers ("IAM") and the Transportation Communications International Union/IAM (TCU/IAM) by counsel, Laurence E. Gold and Michael B. Trister

Agenda Document No. 06-31

Chairman Toner recognized Ms. Cheryl Hemsley of the General Counsel's Office who presented draft Advisory Opinion 2006-12 concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations regarding whether the International Association of Machinists and Aerospace

II. ADVISORY OPINIONS (continued)

E. Advisory Opinion 2006-12 (continued)

Workers (IAM) and the Transportation Communications International Union/IAM (TCU/IAM) are affiliated during the current transition period pending a full merger of IAM and TCU.

Chairman Toner recognized Commissioner Weintraub, who

MOVED to approve draft Advisory Opinion 2006-12, as set forth in Agenda Document No. 06-31.

The motion carried on the vote of 5-0 with Commissioners Lenhard, Mason, Toner, von Spakovsky, and Weintraub voting affirmatively.

III. FINAL AUDIT REPORT ON CWA COPE POLITICAL CONTRIBUTIONS COMMITTEE

Agenda Document No. 06-33

(Placed on the agenda pursuant to the filing of an objection by Commissioner Lenhard following circulation on a 72-hour tally vote.)

The Chairman recognized Vice Chairman Lenhard who stated the basis of his objection relates to Part IV, Finding 4. (Maintenance of Contributor Records for Contributions Received by Payroll Deduction.)

A discussion followed.

III. FINAL AUDIT REPORT ON CWA COPE POLITICAL CONTRIBUTIONS COMMITTEE (continued)

Chairman Toner recognized Vice Chairman Lenhard, who

MOVED to approve the final audit report on CWA COPE Political Contributions Committee, as set forth in Agenda Document No. 06-33, except to reject Finding 4 in Part IV; to authorize the Audit Division to include language in the report which explains the Commission's action; and to circulate the draft on a tally vote basis.

The motion carried on the vote of 5-0 with Commissioners

Lenhard, Mason, Toner, von Spakovsky, and Weintraub voting affirmatively.

IV. ROUTINE ADMINISTRATIVE MATTERS

There were no routine administrative matters to come before the Commission.

The meeting adjourned at 11:45 A.M.

Signed:

**Michael E. Toner
Chairman of the Commission**

Attest:

**Mary W. Dove
Secretary of the Commission**