



AGENDA DOCUMENT NO. 15-32-A

APPROVED JUNE 18, 2015

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, MAY 21, 2015**

PRESENT:

Ann M. Ravel, Chair, presiding

Matthew S. Petersen, Vice Chairman

Lee E. Goodman, Commissioner

Caroline C. Hunter, Commissioner

Steven T. Walther, Commissioner¹

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director

Lisa J. Stevenson, Deputy General Counsel - Law

Shelley E. Garr, Deputy Secretary

¹ Commissioner Walther was not present for the discussion of Items II, III, and IV.

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

Chair Ravel stated that today's agenda has been rearranged to accommodate Commissioner Walther's participation and will begin with Item V (Presentation by the FEC Staff on Enhanced Engagement with the Public and Stakeholders), followed by Item VI (Notice to Respondents of Information Sharing by the Commission), Item VII (Proposed Statement of Policy Regarding the Public Disclosure of Closed Enforcement Files), Item IX (Proposed Directive 74 on the Timely Resolution of Enforcement Matters), Item VIII (Motion to Open a Rulemaking in Response to Comments and Testimony on the *McCutcheon v. FEC* ANPRM), Item II (Audit Division Recommendation Memorandum on the Oakland County Democratic Party (OCDP) (A12-02)), Item III (Audit Division Recommendation Memorandum on Kevin McCarthy for Congress (KMFC) (A13-02)), and Item IV (Audit Division Recommendation Memorandum on New American City, Inc. (NAC)).

**Chair Ravel recognized Vice Chairman Petersen who
MOVED to waive the rules on the timely submission of
agenda documents in order to consider Agenda
Document No. 15-24-B and Agenda Document No. 15-25-B.**

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 March 19, 2015
Agenda Document No. 15-19-A**

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve the minutes for the meeting held on March 19, 2015 as set forth in Agenda Document No. 15-19-A.

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

V. PRESENTATION BY THE FEC STAFF ON ENHANCED ENGAGEMENT WITH THE PUBLIC AND STAKEHOLDERS

Memorandum from the Deputy General Counsels for Law and Administration and the Staff Director dated March 9, 2015

Agenda Document No. 15-23-A

Memorandum from the Deputy General Counsels for Law and Administration and the Special Counsel dated April 2, 2015

Agenda Document No. 15-23-B

Chair Ravel introduced the matter and stated that at the onset of her chairmanship she expressed her commitment to finding ways in which the FEC could be less insular in its processes, provide more transparency, and find ways for public engagement. Chair Ravel explained that today's presentation is the result of her request to staff to review and consider improvements to engage stakeholders and the public. She noted that staff had prepared an incredibly thoughtful and thorough report and expressed her appreciation for their hard work.

Chair Ravel recognized Ms. Lisa Stevenson of the General Counsel's Office and Staff Director Palmer who presented the matter. Mr. Adav Noti of the General Counsel's Office also participated in the discussion that followed.

Chair Ravel stated that both the Regulations Committee and the Press Committee would consider these reports at their next meetings.

VI. NOTICE TO RESPONDENTS OF INFORMATION SHARING BY THE COMMISSION

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

Agenda Document No. 15-26-A

Chair Ravel recognized Commissioner Goodman who presented his

memorandum recommending that the Commission inform respondents in initial notification letters that any information shared with the Commission may be provided to other governmental agencies or law enforcement organizations. Commissioner Goodman, who stated that respondents should be notified of their rights, responsibilities, and the risks when they file information with the Commission, explained that this notice is virtually verbatim from language approved by the Commission and published in the Federal Register.

Discussion followed.

In response to his request to continue the discussion in this matter, Chair Ravel thanked Commissioner Goodman for raising this issue and stated that the Commission would work with the Office of General Counsel to develop a broader policy regarding what information should be provided to respondents.

VII. PROPOSED STATEMENT OF POLICY REGARDING THE PUBLIC DISCLOSURE OF CLOSED ENFORCEMENT FILES

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

Agenda Document No. 15-27-A

Chair Ravel recognized Commissioner Goodman who presented his Proposed Statement of Policy which implicates the Commission's FOIA policies

and transparency at the close of an enforcement file. He stated that his proposal recommends that the Commission return to its prior practice of placing additional documents on the public record in closed enforcement matters subject to appropriate redaction.

Discussion followed.

Chair Ravel recognized Commissioner Goodman who requested that this matter and the previous matter be tentatively scheduled for the next open meeting to provide sufficient time to work on these policies. Chair Ravel stated that the Regulations Committee may not have an opportunity to discuss this matter before the next open meeting, but she would attempt to place it on the agenda for that meeting to continue the discussion.

IX. PROPOSED DIRECTIVE 74 ON THE TIMELY RESOLUTION OF ENFORCEMENT MATTERS

**Memorandum from Commissioner Ellen L. Weintraub
dated May 18, 2015**

**Agenda Document No. 15-25-B
(Submitted Late)**

Chair Ravel recognized Commissioner Weintraub who presented her Proposed Directive 74 to ensure the timely resolution of enforcement matters. Commissioner Weintraub stated that the timely resolution of

enforcement matters is essential. She explained that her proposed directive was an attempt to reduce the number of matters that languished before the Commission by requiring that the Commission move matters efficiently and more quickly through the docket and by assuring that votes occurred in a judicious manner.

Discussion followed.

Chair Ravel acknowledged Commissioner Weintraub's request to consider this matter at the next open meeting and stated that she would attempt to place it on that agenda.

VIII. MOTION TO OPEN A RULEMAKING IN RESPONSE TO COMMENTS AND TESTIMONY ON THE *McCUTCHEON v. FEC* ANPRM

**Memorandum from Commissioner Ellen L. Weintraub
dated May 18, 2015**

**Agenda Document No. 15-24-B
(Submitted Late)**

Chair Ravel recognized Commissioner Weintraub who presented her motion to open a rulemaking resulting from the comments and testimony received in the *McCutcheon v. FEC* ANPRM. Commissioner Weintraub discussed the comments received by the Commission as a result of the ANPRM. She stated that the Commission needed to, in some accountable

way, take responsibility for its decisions and take formal action by opening a rulemaking.

Discussion followed.

**The Commission recessed 11:58 A.M. and reconvened at 12:08 P.M.
with a quorum present.**

VIII. MOTION TO OPEN A RULEMAKING IN RESPONSE TO COMMENTS AND TESTIMONY ON THE *MCCUTCHEON v. FEC* ANPRM (continued)

Discussion resumed.

Chair Ravel recognized Commissioner Weintraub who

MOVED to approve the following:

Whereas the Commission received over 32,000 written comments on the October 17, 2014 Advanced Notice of Proposed Rulemaking in response to the U.S. Supreme Court's decision in *McCutcheon v. FEC*;

Whereas more than 75% of those comments urged the Commission to increase disclosure of political spending and limit the influence of money in our elections;

Whereas on February 11, 2015 the Commission heard in-person testimony from practitioners, advocates, academics, former Commissioners, political party leaders, students, and concerned citizens who provided a variety of perspectives and opinions on action the Commission should take in response to *McCutcheon v. FEC*;

Whereas those who provided comments and testimony relating to the internet overwhelmingly urged the Commission to exclude from the *McCutcheon* rulemaking any proposal to regulate political activity on the internet;

Whereas the Commission, in carrying out its rulemaking authority, has a duty to be responsive to the tens of thousands of Americans who provided comments and testimony requesting swift action by the Commission to address a number of issues including dark money in elections;

I move that the Commission open a rulemaking and accordingly that the Office of General Counsel draft specific proposals, including proposals to increase disclosure, to reflect the written comments and testimony from the public in response to the *McCutcheon* ANPRM.

I further move that the Commission direct OGC to exclude from the rulemaking any proposal affecting political activity on the internet.

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

Chair Ravel stated that the remaining items would be taken out of order, beginning with Item III (Audit Division Recommendation Memorandum on Kevin McCarthy for Congress (KMFC) (A13-02)), followed by Item II (Audit Division Recommendation Memorandum on the Oakland County Democratic

Party (OCDP) (A12-02)), and Item IV (Audit Division Recommendation

Memorandum on New American City, Inc. (NAC)).

**III. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON KEVIN MCCARTHY
FOR CONGRESS (KMFC) (A13-02)**

Memorandum from the Audit Division dated April 27, 2015

Agenda Document No. 15-21-A

Chair Ravel recognized Ms. Brenda Wheeler of the Audit Division who summarized the two Findings in the Memorandum: 1) receipt of contributions in excess of the limit; and 2) misstatement of financial activity. Discussion followed.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve the Audit Division recommendations as set forth in the Audit Division Recommendation Memorandum on Kevin McCarthy for Congress.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.²

**II. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON THE OAKLAND
COUNTY DEMOCRATIC PARTY (OCDP) (A12-02)**

Memorandum from the Audit Division dated April 20, 2015

Agenda Document No. 15-20-A

² Commissioner Walther's vote was recorded in accordance with Directive 10, Paragraph H.

Chair Ravel recognized Ms. Paula Nurthen of the Audit Division who summarized the five Findings in the Memorandum: 1) misstatement of financial activity; 2) recordkeeping for employees; 3) disclosure of occupation and name of employer; 4) recordkeeping for receipts; and 5) use of the campaign depository. Mr. Douglas Kodish of the Audit Division also participated in the discussion that followed.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve the Audit Division Memorandum on the Oakland County Democratic Party (OCDP) (A12-02) as set forth in Agenda Document No. 15-20-A.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.³

IV. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON NEW AMERICAN CITY, INC. (NAC)

Memorandum from the Audit Division dated May 5, 2015

Agenda Document No. 15-22-A

Chair Ravel recognized Mr. Jeff Spilizewski of the Audit Division who summarized the four Findings in the Memorandum: 1) misstatement of financial activity; 2) disclosure of receipts; 3) disclosure of disbursements; and

³ Commissioner Walther's vote was recorded in accordance with Directive 10, Paragraph H.

4) reporting of debts and obligations.

Chair Ravel recognized Vice Chairman Petersen who

**MOVED to approve the Audit Division Recommendation
Memorandum on New American City, Inc. (NAC) as
set forth in Agenda Document No. 15-22-A.**

The motion carried by a vote of 6-0 with Commissioners Goodman,

Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively

for the decision.⁴

X. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission,

the meeting adjourned at 1:17 P.M.

Signed:



Ann M. Ravel

Chair of the Commission

Attest:



Shawn Woodhead Werth

Secretary and Clerk of the Commission



Shelley E. Garr

Deputy Secretary of the Commission

⁴ Commissioner Walther's vote was recorded in accordance with Directive 10, Paragraph H.