



AGENDA DOCUMENT NO. 18-08-A
APPROVED MARCH 8, 2018

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, DECEMBER 14, 2017

PRESENT:

Steven T. Walther, Chairman, presiding

Caroline C. Hunter, Vice Chair

Lee E. Goodman, Commissioner¹

Matthew S. Petersen, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director²

Lisa Stevenson, Acting General Counsel

Dayna C. Brown, Secretary and Clerk

¹ Commissioner Goodman departed during the afternoon discussion of Item II.

² Ms. Patricia Orrock, Chief Compliance Officer, represented Staff Director Palmer for the afternoon portion of the meeting.

Chairman Steven T. Walther called the Federal Election Commission to order in an open meeting at 10:13 A.M. on Thursday, December 14, 2017 with a quorum present.

Chairman Walther recognized Vice Chair Hunter who

MOVED to suspend the rules on the timely submission of agenda documents in order that the Commission may consider the late submission of Agenda Document No. 17-59-B.

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

I. AUDIT DIVISION RECOMMENDATION MEMORANDUM ON THE HAWAII DEMOCRATIC PARTY (HDP) (A13-07)

Memorandum from the Chief Compliance Officer and Audit Division dated November 20, 2017

Agenda Document No. 17-56-A

(Held over from the December 7, 2017 meeting)

Chief Compliance Officer Patricia Orrock stated that the Audit Division presented the matter in the last Open Meeting and did not have any additional comments.

Chairman Walther recognized Commissioner Goodman who stated that there are several content prongs of the coordinated expenditure regulation:

1) express advocacy; 2) electioneering communications, which political parties do not make by definition; and 3) any reference to a candidate for senate or president. With regard to the finding on the Linda Lingle television ad, Commissioner Goodman asked if the Commission avoided a finding, for now, that the ad contained express advocacy, whether under the third prong, this would nonetheless be a coordinated expenditure for the party.

Ms. Margaret Forman of the Office of General Counsel stated their need to confer with the Audit Division to confirm that the ad was in fact run within the 90 day period under the content prong. Mr. Jeff Spilizewski of the Audit Division stated that the \$11,922 was for the production and design of the television ad, and that Audit could not find any documentation with a media vendor for the actual airing of the ad. Mr. Doug Kodish of the Audit Division stated that while there was a date on the front of the clip, he could not confirm whether it was the actual air date. Mr. Spilizewski further stated that the vendor invoiced the committee for the \$11,922 on November 1 for the production and design costs, and confirmed that he did not see a cost for placement and dissemination of the ad.

Commissioner Goodman stated that he was prepared to move approval of Audit's recommendations, noting his uncertainty that, if this were to ever go to a referral, he would support a punishment for exceeding the coordinated expenditure limit under the total umbrella of the national and

state party since they stayed within the combined limit, over what is essentially paperwork issue. He stated that since it is technically in excess of what they had been assigned, for purposes of audit he will support the finding, subject to the relocation of the \$11,922 for an apparent independent expenditure ad to Additional Issues, on the basis that the Commission has no evidence that the ad was actually disseminated.

Chairman Walther inquired as to whether an effort was made to determine whether the ad was ever disseminated. Mr. Spilizewski stated that the information was requested of the committee but never received.

Chairman Walther recognized Commissioner Weintraub who stated that she understood Commissioner Goodman's point of view and would first like to move approval of Audit's recommendations as is.

Commissioner Weintraub then

MOVED to approve the Audit Division recommendations as set forth in the Audit Division Recommendation Memorandum on the Hawaii Democratic Party (HDP)(A13-07), Agenda Document No. 17-56-A.

The motion failed by a vote of 2-3 with Commissioners Walther and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, and Petersen dissented.

Commissioner Goodman then

MOVED to approve the Audit Division recommendations as set forth in the Audit Division Recommendation

Memorandum on the Hawaii Democratic Party (HDP)(A13-07), Agenda Document No. 17-56-A, subject to the excision or relocation of the \$11,922 expenditure for the production design costs to the Additional Issues section, with the final decision on whether to excise or relocate given to the Audit Division.

Discussion continued.

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

II. DRAFT ADVISORY OPINION 2017-12

Take Back Action Fund by John Pudner and Brendan Fischer, Esq.

Agenda Document No. 17-59-A (Draft A)

**Agenda Document No. 17-59-A-1 (Draft A-1)
(Submitted Late)**

**Agenda Document No. 17-59-B (Draft B)
(Submitted Late)**

**Agenda Document No. 17-59-C (Draft C)
(Submitted Late)**

Chairman Walther recognized Mr. John Pudner and Mr. Brendan Fischer, Esq. who were in attendance and available to answer Commissioners' questions. Chairman Walther further stated that Draft C was prepared this morning and that the Commission would take a brief recess to prepare the document for public release and allow time for review. Ms. Selinkoff of the Office of General Counsel confirmed that a total of four (4)

comments had been received, all of which were on the Commission's website.

The meeting recessed at 10:27 A.M. and reconvened at 10:51 A.M. with a quorum present.

Chairman Walther recognized Vice Chair Hunter who

MOVED to suspend the rules on the timely submission of agenda documents in order that the Commission may consider the late submission of Agenda Document No. 17-59-C, otherwise known as Draft C.

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

II. DRAFT ADVISORY OPINION 2017-12 (continued)

Chairman Walther again recognized Mr. Pudner and Mr. Fischer who were available to answer Commissioners' questions.

Chairman Walther recognized Ms. Selinkoff of the Office of General Counsel who stated that Drafts A, B, and C present three draft advisory opinions in response to a request from the Take Back Action Fund. Take Back Action Fund proposes to purchase paid image and video

advertisements on Facebook that will expressly advocate for or against candidates. They ask whether this paid internet content must include all, some, or none of the disclaimer information required by the relevant provision of the Federal Election Campaign Act (the Act). All of the Drafts conclude that Take Back Action Fund's proposed Facebook ads require disclaimers. Draft A concludes that the ads must include a full disclaimer on the face of the ad and that the disclaimer must be clear and conspicuous. Draft A also provides examples of such disclaimers. Draft B assumes the disclaimers will be clear and conspicuous and states that other methods of identifying the advertiser's source, beyond those required by the Act, may be permissible. Draft C refers the requestor to the other drafts and concludes that the ads must contain a full disclaimer.

Chairman Walther recognized Vice Chair Hunter who thanked the requestors for joining them, and stated that different Commissioners are potentially reading the request a little differently. She explained that some Commissioners read the request to say that the requestors were willing to put the full disclaimer on the ad, and willing to adjust the ad somewhat in order to accommodate the full disclaimer. Vice Chair Hunter stated that it was correct that since the requestors did not come to the Commission with a request for something other than the full disclaimer, they must include the full disclaimer. She stated, under the Advisory Opinion provision of the Act,

when someone comes to the Commission with a question with respect to a specific transaction or activity, the Commission shall render an Advisory Opinion. She stated her belief that Draft B answers the requestors' specific question in a way that hopefully satisfies the inquiry.

Chairman Walther recognized Commissioner Weintraub who thanked the requestors for their interesting and provocative question and the Commission's staff for their good work in drafting the proposed answers. Commissioner Weintraub stated that Draft A, with one minor alternation, addresses the question in a thorough, comprehensive, and responsive manner. She further stated her belief that the requestors' willingness to comply with the law was irrelevant as it related to the interpretation of the law.

Mr. John Pudner, requestor, stated that every disclaimer is inconvenient for two reasons, 1) the space it takes up; and 2) when you attack someone, the attacker is always hurt too, and as such, noted that everyone would always love to leave a disclaimer off, as it is always inconvenient to abide by this law. He further stated their desire to leave the Commission knowing the rules so that they can share with their board and staff the concrete rule or guiding principle, noting that there are many people who believe a disclaimer is never needed for a Facebook ad. Mr. Brendan Fischer, Esq., requestor, added that in drafting the request, he did not think

that stating their intent to comply with the law would be a controversial proposition, though they believed it to be implicit in the request that compliance with the disclaimer requirement would include some level of inconvenience. Mr. Fischer further stated that, in reading the regulations and prior Advisory Opinion requests, it appeared that the decision on whether a particular advertisement would fall under an exception depended upon the constraints of the medium rather than the intent of the requestor.

Chairman Walther recognized Commissioner Goodman who stated that the requestors' written comments expressed some confusion about Draft B. Commissioner Goodman agreed that all disclaimers present some level of inconvenience, however, this is not what triggers the small items or impracticability exceptions to the disclaimer rules. What triggers those is where the disclaimers cannot practicably be included in the ad, as animated in prior decisions of the Commission. Commissioner Goodman further stated that, for him, nothing could be more impracticable than where the disclaimer requirement would sensor the entire message, noted that he did not see this occurring in the proposal before the Commission, and that the ads proposed can accommodate the disclaimers.

Discussion continued on FTC rules cited in Draft A and triggering of the small item or impracticability exception as it relates to required disclosures and disclaimers.

Commissioner Goodman stated that he did not see an intent on the requestors' behalf that their proposed advertisements would somehow be censored if required to include a disclaimer, and further stated that as he looked at the new Facebook ads themselves, he saw a number of different ways in which the disclaimers could be included, which is why Draft B concludes that disclaimers are required.

Discussion continued regarding the specifics and flexibility of how the disclaimers could be included on the various new Facebook ads.

Chairman Walther stated the he would support Draft A.

Chairman Walther recognized Commissioner Weintraub who

MOVED to approve the Agenda Document No. 17-59-A, Draft A, in Advisory Opinion Request 2017-12, subject to the deletion of the following language, as found on lines six through nine of page 9:

but see Concurring Statement of Chairman Matthew S. Petersen, Advisory Opinion 2010-19 (Google) (indicating one Commissioner's approval of advisory opinion was rooted in belief that impracticable exception would apply to 95-character ads).

The motion failed by a vote of 2-3 with Commissioners Walther and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, and Petersen dissented.

Chairman Walther recognized Vice Chair Hunter who

MOVED to approve the Agenda Document No. 17-59-B, Draft B, in Advisory Opinion Request 2017-12.

The motion failed by a vote of 3-2 with Commissioners Goodman, Hunter, and Petersen voting affirmatively for the motion. Commissioners Walther and Weintraub dissented.

Chairman Walther recognized Vice Chair Hunter who referenced the most recently made public Draft C, which concludes that a disclaimer must be provided but does not speak to the details on how to do so given the Commission's disagreement in this area. The Vice Chair highlighted that Draft C provides a footnote so that the public knows which document the Commissioners voted in favor of.

Chairman Walther recognized Commissioner Weintraub who stated that she was in favor of putting together a document such as this, but was hoping to do so in an even more stripped down manner. Commissioner Weintraub pointed out that Draft A was not voted for as originally prepared. She explained that Draft A was voted on with an amendment and that she would not want the public to look at Draft A because it would not represent her views. Commissioner Weintraub suggested that this be handled in a manner similar to how it has been handled in the past, with Commissioners preparing respective Concurring Statements.

Chairman Walther recognized Vice Chair Hunter who agreed that they would not want to reference something the Commissioner did not vote for, and would therefore be willing to change the language to "Draft A as

amended” or make the amended version of the Draft public and reference it in the footnote instead.

Commissioner Goodman asked Mr. Pudner for his thoughts at this point, to which Mr. Pudner replied that he was in favor of Draft C. While stripped down, the Draft would allow them to leave the Commission knowing the rules.

Ms. Erin Chlopak of the Office of General Counsel sought clarification as to whether they were being asked to prepare another draft that amends Draft A. Commissioner Weintraub stated that this was not her request and reiterated that she could take Draft A and turn it into a Statement Reasons that would explain the rationale for her vote.

Vice Chair Hunter stated that without the footnote, there would be an Advisory Opinion on the public record that would presumably garner five (5) votes and eliminate for the public the reasoning behind how Commissioners voted. She further stated that the footnote gives the public a lot more information and context.

Chairman Walther recognized Commissioner Weintraub who stated that issuing a Concurring Statement would provide context and explain exactly why Commissioners voted the way they did. Commissioner Weintraub further stated that she agreed with the requestors that Draft B mischaracterized the request which very specifically asks about how prior Advisory Opinions apply

to the conduct that is anticipated, and that Draft B did not speak to those questions.

Chairman Walther recognized Commissioner Goodman who stated that the footnote would reflect that Commissioner Weintraub voted against Draft B, and explained the effort being made to preserve the history of the disagreement as part of the yes answer.

Chairman Walther recognized Vice Chair Hunter who raised the edits Commissioner Weintraub wished to propose to the body of Draft C. Commissioner Weintraub explained her proposal to copy the language used in a previous Advisory Opinion, FYP, where the Commission found itself in a similar situation. She stated that on line 23 of Draft C, the paragraph would be amended to read, "although the Commission could not agree on the legal basis for its conclusion by the required four affirmative votes." Commissioner Weintraub stated that she would be willing to vote on that, without the footnote. Vice Chair Hunter noted her preference for the original language and stated that she would be willing to vote for this amended language, provided it included the footnote for the reasons discussed.

Discussion continued.

Commissioner Petersen requested a brief recess. Chairman Walther concurred.

The meeting recessed at 11:23 A.M. and reconvened at 11:39 A.M. with a quorum present.

II. DRAFT ADVISORY OPINION 2017-12 (continued)

Chairman Walther recognized Commissioner Petersen who summarized that all Commissioners voted for a document, albeit different documents, that says yes; the requestors have indicated that they truly do want a yes; and the Commission owes it to the requestors to arrive at an agreeable way and Draft that does so. Commissioner Petersen then suggested the following edits to Draft C: striking footnote 1; and on line 20, inserting “, as reflected in the Draft Advisory Opinions considered by the Commission, the Commission did not agree, by the required affirmative votes, on the legal basis for this conclusion.”

Discussion continued regarding the various concerns of Commissioners, including the knowledge that a proposed rulemaking would be forthcoming in the near future.

Chairman Walther recognized Commissioner Weintraub who noted her appreciation for Commissioner Petersen’s efforts, and stated that while she was not sure that the proposed language made sense as rewritten, she was willing to continue working through the language with her colleagues.

Commissioner Weintraub suggested that the Commissioners could vote on tally and then make the results public.

Commissioner Petersen asked the Office of General Counsel for the deadline for this request. Ms. Chlopak stated January 8, 2018.

Commissioner Petersen suggested additional possible edits: on line 22, putting a period after “advertising”; on line 23, striking the word, “although” and adding the clause, “for the reasons set forth in the respective draft opinions, the Commission did not agree, by the required four affirmative votes, on the legal basis for this conclusion.”

Commissioner Weintraub stated that she was not prepared to vote at that time.

Commissioner Petersen inquired of the requestors whether, if needed, they would be willing to provide the Commission an extension to continue considering this matter. Mr. Pudner stated that they would be happy to grant an extension to January.

The meeting recessed at 11:52 A.M. and reconvened at 12:11 P.M. with a quorum present.

Chairman Walther stated that Item II. DRAFT ADVISORY OPINION 2017-12 would be held over until 2:00 P.M., and that in the interim the Commission would consider and vote on other items on the meeting's agenda.

IV. LEGISLATIVE RECOMMENDATIONS

Agenda Document No. 17-61-A

**(Duane Pugh of the Office of Congressional, Legislative,
and Intergovernmental Affairs)**

Chairman Walther recognized Mr. Duane Pugh of the Office of Congressional, Legislative and Intergovernmental Affairs who stated that the twelve (12) 2018 legislative recommendations were considered priorities by all Commissioners. Mr. Pugh noted that 2018 will be particularly important for the Administrative Fine Program recommendation, given that under current law the Program applies to reports filed through the Year End 2018 Report. The authorization of the Program would need to be extended by legislation in order for the Administrative Fine Program to apply to later reports. He stated that the Commission was once again requesting that Congress make this efficient and measurably effective program permanent. Mr. Pugh noted that Congress has previously extended the Program on five (5) separate occasions, and a 2018 legislative extension would be a sixth

such extension. Mr. Pugh thanked the Commissioners and staff for their contributions to this year's recommendations.

Chairman Walther recognized Vice Chair Hunter who

**MOVED to approve Agenda Document No. 17-61-A, Draft
Legislative Recommendations for 2017.**

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

**III. ASSESSMENT OF COMMISSION ACTION ON ENFORCEMENT
MATTERS AWAITING REASON-TO-BELIEVE CONSIDERATION**

**Memorandum from Chairman Steven T. Walther
Dated November 15, 2017**

Agenda Document No. 17-53-A

**Memorandum from Chairman Steven T. Walther
Dated November 15, 2017**

Agenda Document No. 17-53-B

**Memorandum from Chairman Steven T. Walther
Dated December 6, 2017**

Agenda Document No. 17-53-C

(Held over from the November 16 and December 7, 2017 meetings)

Chairman Walther explained his request that the data compiled by his office on a periodic basis be provided quarterly by the Office of General Counsel, with the portions to be made public being redacted in accordance with the recommendations of Mr. Larry Calvert of the Office General Counsel.

Mr. Calvert stated that, should the Chairman's motion pass, the Office of General Counsel would begin including in the Enforcement Division's Quarterly Reports, the information and charts which the Chairman's office has, in recent years, produced periodically in its Enforcement Priorities Reports. Mr. Calvert further stated that the information appropriate for public consumption would be made public quarterly.

Discussion continued.

Chairman Walther recognized Vice Chair Hunter who

MOVED to approve Agenda Document No. 17-53-A.

Vice Chair Hunter stated that she would like to request a friendly amendment to the motion to add an additional column for notes about the cases. The Vice Chair explained that this column could be used to provide context and information regarding the reasons matters are held over, such as for litigation purposes, and noted that the information would likely be redacted from the public version of the report.

Discussion followed with regard to the friendly amendment.

Mr. Calvert advised that the operative document for the vote, which contains the Chairman's motion, was Agenda Document No. 17-53-B.

Vice Chair Hunter, amending her motion to remove the inclusion of the friendly amendment, then

MOVED to approve Agenda Document No. 17-53-B.

The motion carried by a vote of 4-0 with Commissioners Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision. Commissioner Goodman abstained.

Commissioner Goodman stated that he abstained from the vote because he had questions he wished to ask.

Vice Chair Hunter then

MOVED to reconsider the vote made with respect to Agenda Document No. 17-53-B.

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

Chairman Walther recognized Commissioner Goodman who sought clarification as to whether information on the chart in question would be included in the Status Reports received by the Commission and whether it would then become a public document. Mr. Calvert stated that the charts would be included in the Status Reports and indicated that under this proposal, the charts would be made public with the appropriate redactions. Mr. Calvert also reaffirmed that the Office of General Counsel would redact any information not already being made public with respect to the charts.

Mr. Calvert participated in the discussion that continued with regard to the scope of the intended redactions, including information regarding

matters that have been held over at the request of one or more Commissioner and/or the Office of General Counsel, and what constituted a formal versus an informal holdover request.

Chairman Walther pointed out a typo on page 2, paragraph 3 of Agenda Document No. 17-53-B, where the word “action” should be “inaction.”

Commissioner Goodman stated that he was prepared to support the motion, and indicated that it was a fair transparency. He further stated that the more the Commission reveals, the more possibility there will be that Commissioners will have to defend their proceedings publically.

Vice Chair Hunter proposed adding the following language to the end of line j. in sub-section II.B.2. of Agenda Document No. 17-53-B: “and any pertinent information.” Vice Chair Hunter stated that there are times when there is a very good reason for holding a matter over, and allowing the Commissioner whose name will now appear on the report as requesting the holdover to provide a short reason for the holdover request would be beneficial.

Chairman Walther stated that the name of person requesting the holdover would not go public. Vice Chair Hunter agreed and stated the pertinent information may not be made public either. Commissioner Goodman stated that this was a friendly, constructive amendment.

Chairman Walther recognized Commissioner Weintraub who asked Mr. Calvert whether the proposed document, which would redact certain information, would be subject to Freedom of Information Act (FOIA) requests either during the pendency of the matters or after they are completed. Mr. Calvert stated that the matters could be the subject of a FOIA requests, and that it was unlikely that what would be redacted as a matter of privilege or Commission policy would be any different than what would be provided for under FOIA.

With regard to Vice Chair Hunter's proposed amendment, Acting General Counsel Lisa Stevenson stated that Office of General Counsel would not be responsible for any characterization of the basis for holdovers. Vice Chair Hunter agreed with this approach. Commissioner Weintraub reiterated that holdover requests would be tagged to the specific Commissioner(s) requesting the holdover.

Chairman Walther recognized Vice Chair Hunter who

**MOVED to approve Agenda Document No. 17-53-B,
subject to the following amendments:**

- a. Adding the following language after "requestor(s)" in sub-section II.B.2.j.**

"and any pertinent information provided by the person holding the matter over."

- b. Changing the word "action" to "inaction" in sub-section II.B.3.**

Discussion followed.

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

VII. 2018 MEETING DATES (JANUARY THROUGH JUNE)

**Memorandum from Vice Chair Caroline C. Hunter
dated December 7, 2017**

Agenda Document No. 17-60-A

Chairman Walther recognized Vice Chair Hunter who

**MOVED to approve Agenda Document No. 17-60-A, 2018
Meeting Dates (January through June).**

The motion carried by a vote of 5-0 with Commissioners Goodman, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

**Chairman Walther stated that the meeting would recess until 2:00 P.M.
and reconvene with discussion of Advisory Opinion 2017-12.**

**The meeting recessed at 12:48 P.M. and reconvened at 2:20 P.M. with a
quorum present.**

II. DRAFT ADVISORY OPINION 2017-12 (continued)

Chairman Walther stated that the Commissioners were still working to produce a consensus document. He offered new footnote language, noting that the proposal did not appear to have four (4) affirmative votes.

Chairman Walther recognized Commissioner Weintraub who stated that the Commission was in the process of making public a version of Draft A which included, within the actual document, the edits that were made to original version of Draft A that was voted on earlier in the meeting.

Commissioner Weintraub stated that all Commissioners have voted for a draft that expresses the conclusion that the advertisements must include the disclaimers so that, in some sense, the requestors' have an answer, though not expressed in a single document. She further stated her willingness to continue working with Commissioners to get to a single consensus document.

Discussion followed.

Vice Chair Hunter and Commissioners Goodman and Petersen voiced their willingness to vote for the most recent language proposed by Chairman Walther. Commissioner Weintraub expressed her desire to first have the new, clean version of Draft A made public so that it is clear for record, and explained the portion of Chairman Walther's proposed language that she was not comfortable with.

Ms. Erin Chlopak of the Office of General Counsel and Acting General Counsel Stevenson participated in the discussion that continued regarding how to proceed with making public and voting on Commissioner Weintraub's new draft, Draft A-1, and the respective consensus language proposed by Chairman Walther and Commissioner Petersen.

Commissioner Weintraub outlined the tentatively agreed upon proposed amendments to Draft C. Ms. Dayna Brown, Commission Secretary, advised that should Draft C be voted on with reference to Draft A-1 as outlined by Commissioner Weintraub, a special motion would be required with regard to the late submitted document. Acting General Counsel Stevenson and Mr. Calvert advised the Commission on the procedural aspects of the impending Draft C proposal, with Mr. Calvert advising that the Commission reconsider the earlier vote on Draft A and then vote on Draft A-1.

Chairman Walther recognized Commissioner Petersen who

**MOVED to reconsider the vote made with respect to
Agenda Document No. 17-59-A.**

The motion carried by a vote of 5-0 with Commissioners Goodman³, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

Chairman Walther recognized Vice Chair Hunter who

³ Commissioner Goodman's vote was recorded in accordance with Directive 10, Section H.

MOVED to suspend the rules on the timely submission of agenda documents in order that the Commission may consider the late submission of Agenda Document No. 17-59-A-1.

The motion carried by a vote of 5-0 with Commissioners Goodman⁴, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

Chairman Walther recognized Commissioner Weintraub who

MOVED to approve Agenda Document No. 17-59-A-1, Draft A-1, in Advisory Opinion Request 2017-12.

The motion failed by a vote of 2-3 with Commissioners Walther and Weintraub voting affirmatively for the motion. Commissioners Goodman⁵, Hunter, and Petersen dissented.

Chairman Walther then recognized Commissioner Weintraub who

MOVED Approve Agenda Document No. 17-59-C in Advisory Opinion 2017-12, subject to the following amendments made at the table:

- a. Page 1, Line 22: end the sentence after the word “advertising” and delete the language on lines 23, 24, and 25.**
- b. Insert a footnote at the end of line 22, which reads:**

In reaching this conclusion, the Commissioners relied on different rationales, some of which are reflected in Agenda Doc. No. 17-59-A-1, vote result of 2-3; Agenda Doc. No. 17-59-B, vote result of 3-2; Vote Certification dated December 14, 2017,

⁴ Commissioner Goodman’s vote was recorded in accordance with Directive 10, Section H.

⁵ Commissioner Goodman’s vote was recorded in accordance with Directive 10, Section H.

available at [website address]. Because the affirmative vote of four members of the Commission is required to render an advisory opinion under the Act, neither agenda document is a Commission advisory opinion. 52 U.S.C. §§ 30106(c), 30107(a)(7); 11 C.F.R. § 112.4(a).

Mr. Calvert stated that the motion was in order.

The motion carried by a vote of 5-0 with Commissioners Goodman⁶, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

VIII. ELECTION OF OFFICERS

Chairman Walther stated that, as he steps down from this position, it was very enjoyable year. He thanked his fellow Commissioners for working through the matters before them and expressed his utmost respect for staff and their hard work, stating that they do not receive near the recognition they deserve.

Chairman Walther recognized Vice Chair Hunter who stated that it was a pleasure working with the Chairman this year. The Vice Chair stated that she has enjoyed their conversations on both substantive matters and family. She noted that Chairman Walther was a true gentleman, always willing to listen to all sides, and thanked the Chairman's staff, Tom Andersen, Shauna Broussard, and Shelley Garr for their assistance throughout the year. In

⁶ Commissioner Goodman's vote was recorded in accordance with Directive 10, Section H.

honor of his service as Chairman, and on behalf of the Commissioners, Vice Chair Hunter presented Commissioner Walther with a gavel etched with his name and the FEC seal.

Chairman Walther expressed his appreciation to his colleagues for the beautiful gift, and then thanked his staff, Mr. Andersen, Ms. Broussard, and Ms. Garr for their hard work and loyalty throughout the year.

Chairman Walther recognized Commissioner Weintraub who expressed her desire to particularly acknowledge the Chairman's dedication to the mission of the agency, having come to the agency from Reno many years ago. She stated that Chairman Walther has been stalwart in his dedication to the transparency mission of the agency and to the well-being of the staff, serving as a champion in the effort to improve professional development opportunities for staff. Commissioner Weintraub then thanked the Chairman's staff for their tireless efforts throughout the year.

Chairman Walther recognized Commissioner Petersen who agreed with the remarks of Vice Chair Hunter and Commissioner Weintraub.

Commissioner Petersen stated that he's had the privilege of serving in a Chair/Vice Chair relationship with Commissioner Walther on two different occasions, and whether serving together in those leadership roles or just as Commissioners, it has always been a pleasure to work with him.

Commissioner Petersen expressed his appreciation for Chairman Walther's

professionalism, the dignified way in which he goes about his work, and especially his friendship and the genuine nature of his personality.

B. Vice Chair

Chairman Walther recognized Commissioner Petersen who

MOVED to elect Commissioner Ellen L. Weintraub to serve as Vice Chair of the Federal Election Commission for 2018.

The motion carried on a vote of 4-0 with Commissioners Goodman⁷, Hunter, Petersen, and Walther voting affirmatively for the decision. Commissioner Weintraub did not vote.

A. Chair

Chairman Walther recognized Commissioner Weintraub who

MOVED to elect Vice Chair Caroline C. Hunter to serve as Chair of the Federal Election Commission for 2018.

The motion carried on a vote of 5-0 with Commissioners Goodman⁸, Hunter, Petersen, Walther, and Weintraub voting affirmatively for the decision.

V. LONG RANGE BUDGET ESTIMATES FOR THE PRESIDENTIAL ELECTION CAMPAIGN FUND (PECF) FY 2018 – FY 2028

Memorandum from the Audit Division dated November 30, 2017

**Agenda Document No. 17-62-A
(Submitted Late)**

⁷ Commissioner Goodman's vote was recorded in accordance with Directive 10, Section H.

⁸ Commissioner Goodman's vote was recorded in accordance with Directive 10, Section H.

(Resolved on tally pursuant to removal of objection(s))

This matter was resolved on tally and was not discussed.

VI. FORTY YEAR REPORT

**Memorandum from the Information Division dated
December 10, 2015**

Agenda Document No. 17-63-A

(Submitted Late)

This matter was not discussed.

IX. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission, the
meeting adjourned at 3:24 P.M.**

Signed:


Steven T. Walther

**Chairman of the Commission
(2017)**

Attest:



**Dayna C. Brown
Secretary and Clerk of the Commission**