



AGENDA DOCUMENT NO. 19-05-A

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, DECEMBER 13, 2018

PRESENT:

- Caroline C. Hunter, Chair, presiding
- Ellen L. Weintraub, Vice Chair
- Matthew S. Petersen, Commissioner
- Steven T. Walther, Commissioner
- Alec Palmer, Staff Director
- Lisa Stevenson, Acting General Counsel
- Dayna C. Brown, Secretary and Clerk

Chair Caroline C. Hunter called the Federal Election Commission to order in an open meeting at 10:14 A.M. on Thursday, December 13, 2018 with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for December 6, 2018
Agenda Document No. 18-52-A

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the minutes for the meeting of Thursday, December 6, 2018, as set forth in Agenda Document No. 18-52-A.

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

II. DRAFT ADVISORY OPINION 2018-15

Senator Ron Wyden by The Honorable Ron Wyden

Agenda Document No. 18-46-A (Draft A)

Agenda Document No. 18-46-B (Draft B)
(Submitted Late)

(Held over from the meetings of November 15, 2018 and December 6, 2018)

Chair Hunter recognized Vice Chair Weintraub 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 Documents No. 18-46-B, 18-53-A, 18-54-A, 18-55-A, and 18-56-A

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

II. DRAFT ADVISORY OPINION 2018-15 (continued)

Chair Hunter stated that there were two drafts for this matter and that her understanding was that there was support for Draft B.

Commissioner Walther then

MOVED to adopt Draft B.

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

III. DRAFT ADVISORY OPINION 2018-12

Defending Digital Campaigns, Inc. by Marc Elias, Esq.
and Michael Toner, Esq.

Agenda Document No. 18-43-A (Draft A)

Agenda Document No. 18-43-B (Draft B)

(Held over from the meetings of October 11, 2018 and
October 25, 2018)

(To be held to a future meeting)

Chair Hunter stated that this matter was once again being held to a future meeting at the request of the requestors to allow them additional time to review the drafts that have been placed on the public record.

IV. DRAFT ADVISORY OPINION 2018-13

OsiaNetwork LLC by Jonathan S. Sack, Esq. and
Brian A. Hunt, Esq.

Agenda Document No. 18-49-A (Draft A)

(Held over from the meeting of November 15, 2018)

(To be held over to a future meeting)

Chair Hunter stated that this matter was being held over to a future meeting and that the requestor had granted an extension to allow time for the Commission to consider comments recently filed by the requestors.

V. REG 2014-02 (DRAFT FINAL RULE AND EXPLANATION AND JUSTIFICATION FOR REPORTING MULTISTATE INDEPENDENT EXPENDITURES AND ELECTIONEERING COMMUNICATIONS)

Agenda Document No. 18-55-A
(Submitted Late)

Chair Hunter recognized Mr. Robert Knop of the General Counsel's Office and Ms. Debbie Chacona of the Reports Analysis Division.

Mr. Knop presented the Draft Final Rule concerning how and when to report independent expenditures that are made in connection with the presidential primary election but that do not reference or target a specific state's primary. The Draft Final Rule adopts Alternative B from the Notice of Proposed Rules and requires that those making multistate independent expenditures in six (6) or more states, that do not refer to any particular state,

base its reporting on the first of those states holding the presidential primary.

The draft also provides guidance to those making independent expenditures in less than six (6) states. If approved, the Draft Final Rule would take effect 30 days after publication in the *Federal Register*.

Chair Hunter thanked the Office of General Counsel and Ms. Chacona and her staff, and all of the Commissioners. Ms. Chacona thanked the Commissioners for reaching agreement on this issue.

Discussion followed.

Vice Chair Weintraub applauded Chair Hunter for her leadership on this issue and for her persistence and determination to get this done.

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the Draft Final Rule and Explanation and Justification for Reporting Multistate Independent Expenditures and Electioneering Communications, REG 2014-02, as set forth in Agenda Document No. 18-55-A; direct the staff to work with the Federal Register for publication; and put the rule into effect in time for the next cycle.

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

VI. DRAFT LEGISLATIVE RECOMMENDATIONS 2018

Agenda Document No. 18-54-A
(Submitted Late)

Chair Hunter recognized Mr. Duane Pugh of the Office of Congressional, Legislative and Intergovernmental Affairs who stated that included in the 12 legislative recommendations before the Commission was a new recommendation, Prohibit Aiding or Abetting the Making of Contributions in Name of Another, which was suggested by the Litigation Division. Mr. Pugh noted that the very familiar legislative recommendation pertaining to Senate Electronic Filing was missing because it has been accomplished and enacted. Mr. Pugh further stated that last night the Senate passed H.R.7120 extending the Administrative Fine Program from its current expiration through the Year End Reports for 2023. Discussion followed with regard to whether the Commission would continue to pursue the recommendation to make the Administrative Fine Program permanent in light of the program's recent extension.

Discussion continued on specific recommendations including: Update Citations to Reflect the Recodification of FECA; Authority to Create Senior Executive Positions; Prohibit Fraudulent PAC Practices; and, Conversion of Campaign Funds.

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the Draft Legislative Recommendations for 2018, as set forth in Agenda Document No. 18-54-A, with the exception of recommendation seven (7) which should be tabled for a later recommendation.

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

VII. FISCAL YEAR 2020 BUDGET AMENDMENT REQUEST

Memorandum from Chair Caroline C. Hunter
dated December 13, 2018

Agenda Document No. 18-56-A
(Submitted Late)

Chair Hunter introduced the matter stating that included in this agenda document was a letter to the Director of the Office of Management and Budget (OMB), advising OMB that since the electronic filing bill requiring Senate filers to now submit their filings electronically was passed after the Commission submitted its Fiscal Year (FY) 2020 budget submission, there will be a reduction in the Commission's FY 2020 budget. Chair Hunter stated that it was important to her that the Commission notify OMB of the approximate \$600,000 savings that the agency did not know about at the time the budget was submitted.

Vice Chair Weintraub stated her belief that savings resulting from the passage of electronic filing should be used for the benefit of the agency, the public, and in service of the important mission of the agency, particularly in support of improving the efficiency of the Enforcement Division.

Discussion continued.

Chair Hunter recognized Commissioner Petersen who

MOVED to approve the letter as set forth in Agenda Document No. 18-56-A.

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

VIII. JANUARY – JUNE, 2019 MEETING DATES

Memorandum from Vice Chair Ellen L. Weintraub dated December 12, 2018

Agenda Document No. 18-53-A
(Submitted Late)

Chair Hunter recognized Vice Chair Weintraub who

MOVED to approve the setting of meeting dates for the first half of 2019, as set forth in Agenda Document 18-53-A.

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

Chair Hunter recognized and thanked the following employees for their years of Federal Service:

40 Years of Service

Theresa Mallory
Robin Kelly
Ida Reavis
Marty Favin
Jim Allen
Jackie Crawford
Cynthia Myers
Garland Coleman

Carol Worthy
35 Years of Service

Jim Jones
Pat Dunn
Cheryl Williams
Mary Moss
Judy Fox
Michael Pearson
Wanda O'Neal
Robert Bonham

30 Years of Service

Kevin Salley
Candace Salley
Donna Smith
Kimberly Hart
Sam Stewart
Michael Moody
Gwendolyn Holmes
Tony Buckley
Marie Dixon
Larry Calvert
Stephanie Watson
Donnie Harris
Patrick Donohoe
Dorothy Yeager
Vernon Shorter
Gilbert Ford
Sylvia Windham
Dominique Dillenseger

Chair Hunter, in a moment of personal privilege, noted that this was her last meeting as Chair of the Commission, in her second tour-of-duty as Chair, and she enjoyed it very much. She stated that she very much enjoyed working

with staff and her fellow colleagues, and looked forward to passing the gavel to Vice Chair Weintraub.

The Chair further stated that, as frequently happens in the area of campaign finance law, the law is being challenged again through a variety of lawsuits in two key areas: 1) donor disclosure, in which there was a decision over the summer, and for which the agency put out guidance in October to help the public comply, for now, on that issue; and 2) the question of how political committee status is determined, for which there is litigation across the country. Chair Hunter noted that although these two areas of the law have been fixtures of the law from the very beginning, there is still a large amount of uncertainty, for which she hoped there would be clear guidance in the future.

With regard to enforcement, Chair Hunter stated that there was a moderate increase in the number of cases closed this year. The Commission worked hard to try to decrease the docket, with many cases moved to the Office of Alternative Dispute Resolution (ADR) as an appropriate place to deal with certain cases. The Chair thanked Krista Roche, noting that she was now the permanent Director of ADR and has done an excellent job.

Chair Hunter highlighted that the Commission has started educational programs to encourage voluntary compliance, which is part of the Commission's statutory mandate. The Chair thanked Alec Palmer, Pat Orrock, Debbie Chacona, Greg Scott and all employees that assist with the programs.

For every part of the agency that participated in the transition of Senate filers to electronic filing, including the Office of General Counsel and the Information Technology Division, the Chair extended her appreciation for the hard work that resulted in a successful transition.

Chair Hunter stated that the Commission finally accomplished the Multistate Independent Expenditure Rulemaking. The Commission also started the Internet Disclaimer Rulemaking, for which a two-day hearing was held over the summer.

With respect to the Federal Employee Viewpoint Survey, Chair Hunter noted that the Commission made a modest improvement in the morale of the agency, for which the agency received an award for the Most Improved Small Federal Agency. The Chair attributed this improvement to the participatory process employed in the agency's relocation to its new building, as headed up by Administrative Officer, India Robinson, and the Commission's excellent managers who stepped up and made a strong effort to engage staff and listen to their comments and concerns.

Chair Hunter thanked her staff, Eric Brown, Amy Rothstein, Chris Curran, Katie Reynolds, as well as Lindsey Melody who left earlier in the year, for all of their support and help throughout the year. The Chair thanked her fellow Commissioners, their Executive Assistants, and all staff.

Chair Hunter recognized Commissioner Petersen for a moment of personal privilege. Commissioner Petersen thanked Chair Hunter for the service she extended to the Commission over the past year.

Chair Hunter recognized Commissioner Walther for a moment of personal privilege. Commissioner Walther stated that it was a pleasure working with Chair Hunter this year and congratulated her for a very nice year.

IX. ELECTION OF OFFICERS

Vice Chairman

Chair Hunter recognized Commissioner Walther who

MOVED to elect Commissioner Matthew S. Petersen to serve as Vice Chairman of the Federal Election Commission for 2019.

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

Chair

Chair Hunter recognized Commissioner Petersen who

MOVED to elect Vice Chair Ellen L. Weintraub to serve as Chair of the Federal Election Commission for 2019.

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

Chair Hunter recognized Vice Chair Weintraub for a moment of personal privilege. Vice Chair Weintraub thanked Chair Hunter for her steady hand on the gavel and for her persistence. The Vice Chair also thanked Chair Hunter's staff for their efforts this year.

X. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 11:07 A.M.

Signed:

Caroline C. Hunter
Chair of the Commission (2018)

Attest:

Dayna C. Brown
Secretary and Clerk of the Commission