AGENDA DOCUMENT NO. 07-44

MINUTES OF AN OPEN MEETING

OF THE

FEDERAL ELECTION COMMISSION

THURSDAY, MAY 31, 2007

PRESENT:

Robert D. Lenhard, Chairman, presiding
David M. Mason, Vice Chairman
Hans A. von Spakovsky, Commissioner
Steven T. Walther, Commissioner
Ellen L. Weintraub, Commissioner
John W. Sigmon, Deputy Staff Director for Management and Administration, and Margarita Maisonet, Deputy Staff Director for Compliance, representing Patrina M. Clark, Staff Director
Thomasenia P. Duncan, General Counsel
Mary W. Dove, Secretary
Chairman Robert D. Lenhard called the Federal Election Commission to order in an open meeting at 2:05 P.M. on Thursday, May 31, 2007, with a quorum present.

I. **CORRECTION AND APPROVAL OF MINUTES**

**Minutes for May 3, 2007**  
**Agenda Document No. 07-36**

Chairman Lenhard recognized Vice Chairman Mason, who

MOVED to approve the minutes for the Open Meeting of Thursday, May 3, 2007, as set forth in Agenda Document No. 07-36.

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

II. **DRAFT ADVISORY OPINION 2007-07**

**Craig for U.S. Congress by counsel, Neil Reiff**  
**Agenda Document No. 07-38**

Chairman Lenhard recognized Mr. Tony Buckley of the General Counsel's Office who presented draft Advisory Opinion 2007-07 regarding whether, under the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations, Craig for U.S. Congress may amend its disclosure reports to report funds received
II. **DRAFT ADVISORY OPINION 2007-07** (continued)

from the candidate as loans rather than as contributions, and accept additional contributions to pay off these loans.

Chairman Lenhard recognized Vice Chairman Mason, who

MOVED to approve draft Advisory Opinion 2007-07, as set forth in Agenda Document No. 07-38.

The motion carried on the vote of 5-0.

III. **DRAFT STATEMENT OF POLICY REGARDING TREASURERS' BEST EFFORTS TO OBTAIN, MAINTAIN, AND SUBMIT INFORMATION AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT**

Agenda Document No. 07-41 (submitted late)

The Chairman recognized Vice Chairman Mason, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 07-41.

The motion carried on the vote of 5-0.

Chairman Lenhard recognized Ms. Margaret Perl of the General Counsel's Office who presented the subject draft.

The Chairman recognized Vice Chairman Mason, who

MOVED to approve the draft Statement of Policy Regarding Treasurers' Best Efforts to Obtain, Maintain, and Submit Information as required by the Federal Election Campaign Act for publication in the *Federal Register.*
III. DRAFT STATEMENT OF POLICY REGARDING TREASURERS' BEST EFFORTS TO OBTAIN, MAINTAIN, AND SUBMIT INFORMATION AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT  

The motion carried on the vote of 5-0.

IV. DRAFT NOTICE OF PROPOSED RULEMAKING FOR FEDERAL ELECTION ACTIVITY AND NON-FEDERAL ELECTIONS

Agenda Document No. 07-42 (submitted late)

The Chairman recognized Vice Chairman Mason, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 07-42.

The motion carried on the vote of 5-0.

Chairman Lenhard recognized Ms. Margaret Perl of the General Counsel's Office who presented the draft Notice of Proposed Rulemaking for Federal Election Activity and Non-Federal Elections and noted there would be a 30 day comment period after date of publication in the Federal Register.

A discussion followed.

Chairman Lenhard recognized Vice Chairman Mason, who

MOVED to approve the draft Notice of Proposed Rulemaking for Federal Election Activity and Non-Federal Elections, as set forth in Agenda Document No. 07-42, for publication in the Federal Register.

The motion carried on the vote of 5-0.
The agenda was reordered and Item VI. was considered next.

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VI.  KERRY/EDWARDS 2004 FINAL AUDIT REPORT

Agenda Document No. 07-37
Agenda Document No. 07-43  (submitted late)

The Chairman recognized Vice Chairman Mason, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 07-43.

The motion carried on the vote of 5-0.

Chairman Lenhard recognized Mr. Thomas Nurthen of the Staff Director's Office (Audit Division) who reviewed the Audit's findings in the above-captioned matter.

A discussion followed.

The Chairman recognized Commissioner Weintraub, who

MOVED to approve the Final Audit Report on the Kerry-Edwards 2004, Inc. and the Kerry-Edwards 2004, Inc. General Election Legal and Accounting Compliance Fund (GELAC), as set forth in Agenda Document No. 07-37, subject to the following amendments:
VI. KERRY/EDWARDS 2004 FINAL AUDIT REPORT (continued)

Finding 2. To permit the Committee to allocate to the GELAC a $100,000 payment to the media consultant for recordkeeping and reconciliation; to permit the Committee to allocate to the GELAC 85% of computer costs that relate to the operations of the accounting office; and, to permit the Committee to allocate $25,241 to the primary committee for plane decal costs.

Finding 4. To amend this finding to indicate the Committee's compliance with the Audit Division's recommendation.

The motion carried on the vote of 5-0.

V. REPORT OF THE AUDIT DIVISION ON GEPHARDT FOR PRESIDENT, INC.

(Held over from the meeting of April 19, 2007)

Agenda Documents No. 07-30 and No. 07-39

Chairman Lenhard recognized Mr. Tom Hintermister of the Staff Director's Office (Audit Division) who presented the subject audit.

Following discussion, the Chairman recognized Commissioner Weintraub, who

MOVED that the Commission approve the Report of the Audit Division on Gephardt for President, Inc., as set forth in Agenda Document No. 07-30, subject to the following amendments:

Finding 1. To reduce the repayment by $128,104 to the U.S. Treasury.
V. REPORT OF THE AUDIT DIVISION ON GEPHARDT FOR PRESIDENT, INC. (continued)

Finding 3. To reject the repayment of $27,746 to the U.S. Treasury.

The motion carried on the vote of 4-1 with Commissioners Lenhard, Mason, Walther, and Weintraub voting affirmatively.

Commissioner von Spakovsky dissented.

Commissioner von Spakovsky requested that the record reflect he dissented because the motion was made with regard to both findings. However, he would have supported a motion which eliminated Finding 3.

VII. FY 2007 Re-allocation of Funds

Agenda Document No. 07-40

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

Chairman Lenhard recognized Commissioner Walther who stated his concerns had been addressed by the Chief Financial Officer. He removed his objection and voted in favor of the report, as contained in Agenda Document No. 07-40. Therefore, the pre-meeting tally was amended to reflect a vote of 5 approvals.
VIII. MANAGEMENT AND ADMINISTRATIVE MATTERS

There were no additional matters to come before the Commission.

The meeting adjourned at 3:45 P.M.

Signed:

Robert D. Lenhard
Chairman of the Commission

Attest:

Mary W. Dove
Secretary of the Commission