



AGENDA DOCUMENT No. 10-26

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, APRIL 29, 2010**

PRESENT:

Matthew S. Petersen, Chairman, presiding

Cynthia L. Bauerly, Vice Chair

Caroline C. Hunter, Commissioner

Donald F. McGahn II, Commissioner

Steven T. Walther, Commissioner

Ellen L. Weintraub, Commissioner

Alec Palmer, Acting Staff Director

Thomasenia P. Duncan, General Counsel

Lisa Chapman¹, Office of the Commission Secretary

¹ The Minutes, prepared by Darlene Harris, contain information provided by the following sources: summary by Lisa Chapman; vote certifications prepared by Kathleen Ryan (Office of the Staff Director) and signed/attested to by Lisa Chapman.

Chairman Matthew S. Petersen called the Federal Election Commission to order in an open meeting at 10:55 A.M. on Thursday, April 29, 2010, with a quorum present.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for April 15, 2010
Agenda Document No. 10-21**

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to approve the Minutes for the open meeting of Thursday, April 15, 2010, as set forth in Agenda Document No. 10-21.

The motion carried on a vote of 6-0 with Commissioners Bauerly, Hunter, McGahn, Petersen, Walther and Weintraub voting affirmatively.

II. FINAL RULES AND EXPLANATION AND JUSTIFICATION - NON-FEDERAL FUNDRAISING EVENTS

Agenda Documents No. 10-22, No. 10-22-A, No. 10-22-B and No. 10-22-C (Submitted late)

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Documents No. 10-22, No. 10-22-A, No. 10-22-B and No. 10-22-C.

The motion carried on a vote of 6-0.

Chairman Petersen recognized Mr. David Adkins of the General Counsel's Office who presented the subject document. A discussion followed.

**II. FINAL RULES AND EXPLANATION AND JUSTIFICATION -
NON-FEDERAL FUNDRAISING EVENTS (continued)**

Chairman Petersen recognized Commissioner Walther, who

MOVED to approve the Draft Final Rule and Explanation and Justification for Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events, as set forth in Agenda Document No. 10-22, as amended by Agenda Document No. 10-22-A.

The motion failed on a vote of 3-3 with Commissioners Bauerly,

Walther and Weintraub voting affirmatively.

Commissioners Hunter, McGahn and Petersen dissented.

Chairman Petersen recognized Commissioner Walther, who

MOVED to approve the Draft Final Rule and Explanation and Justification for Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events, as set forth in Agenda Document No. 10-22, as amended by Agenda Documents No. 10-22-B and 10-22-C, and to authorize the Office of General Counsel to make any necessary technical and conforming amendments.

The motion carried on a vote of 6-0.

III. DRAFT ADVISORY OPINION 2010-04

**Wawa, Inc., by Mark N. Suprenant,
General Counsel and Secretary**

Agenda Document No. 10-23 (Submitted late)

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document No. 10-23.

The motion carried on a vote of 6-0.

III. DRAFT ADVISORY OPINION 2010-04 (continued)

Chairman Petersen recognized Mr. Joshua Blume of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the status of certain Wawa employees as members of Wawa's "executive or administrative personnel." A discussion followed.

**Chairman Petersen recognized Vice Chair Bauerly, who
MOVED to approve draft Advisory Opinion 2010-04,
as set forth in Agenda Document No. 10-23.**

The motion carried on a vote of 6-0.

IV. DRAFT ADVISORY OPINION 2010-03

**National Democratic Redistricting Trust (NDRT),
by Marc E. Elias, Esq. and Kate S. Keane, Esq.
Agenda Document No. 10-24 (Submitted late)
(Alternative Drafts – A and B)**

**Chairman Petersen recognized Vice Chair Bauerly, who
MOVED to suspend the rules on the timely
submission of agenda documents in order
to consider Agenda Document No. 10-24.**

The motion carried on a vote of 6-0.

**The Chairman noted that counsel, Mr. Marc Elias, was present to
answer any questions the Commission may have during the discussion.**

IV. DRAFT ADVISORY OPINION 2010-03 (continued)

Chairman Petersen recognized Mr. Anthony Buckley of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the solicitation of funds by Members of Congress on behalf of the Trust. A discussion followed.

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The meeting recessed at 1:10 P.M. and reconvened at 1:15 P.M. with a quorum present.

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IV. DRAFT ADVISORY OPINION 2010-03 (continued)

Discussion resumed. It was agreed, without objection, to take additional time to consider this matter and circulate it for Commission approval on a tally vote basis².

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The meeting recessed at 1:30 P.M. and reconvened at 2:45 P.M. with a quorum present.

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² On May 7, 2010, the Commission decided by a vote of 6-0 to approve the tally vote draft of AO 2010-03, as recommended in the General Counsel's Memorandum dated May 7, 2010.

**V. REPORT OF THE AUDIT DIVISION ON THE TENNESSEE
DEMOCRATIC PARTY (TDP)**

**Agenda Document No. 10-18
(Held over from the meeting of April 15, 2010)**

Chairman Petersen recognized Mr. Thomas Nurthen of the Audit Division who presented the subject document. Mr. Joseph Stoltz of the Audit Division participated in the discussion which followed. Ms. Brenda Wheeler of the Audit Division, and Mr. Lawrence Calvert and Ms. Delanie Painter of the General Counsel's Office were also present to respond to questions and comments.

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to approve Finding 1 in the report with respect to automated phone banks and Finding 2 with respect to disclosure of disbursements and not approve the finding with respect to campaign rallies.

The motion carried on a vote of 6-0.

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to direct the Audit Division to revise the discussion with respect to the poll issue in Finding 1 to indicate that the Commission concluded that the polls were permissible as the currently amended reports indicate.

The motion carried on a vote of 6-0.

**VI. REPORT OF THE AUDIT DIVISION ON FRIENDS FOR
MENOR COMMITTEE**

**Agenda Document No. 10-19
(Held over from the meeting of April 15, 2010)**

Chairman Petersen recognized Mr. Thomas Hintermister of the Audit Division who presented the subject document. Mr. Joseph Stoltz of the Audit Division and Mr. Lawrence Calvert of the General Counsel's Office participated in the discussion which followed.

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to approve Finding 1, as set forth in Agenda Document No. 10-19, with respect to everything but the \$5500 loan and indicate the evidence was not sufficient to make a finding that this was an impermissible contribution.

The motion carried on a vote of 6-0.

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to approve Finding 2, as set forth in Agenda Document No. 10-19.

The motion failed on a vote of 2-4 with Commissioners Bauerly and Weintraub voting affirmatively.

Commissioners Hunter, McGahn, Petersen and Walther dissented.

VII. PROPOSED INTERIM ENFORCEMENT POLICY

Agenda Document No. 10-16

(Held over from the meeting of March 11, 2010)

**It was agreed, without objection, to hold this matter over
to a future meeting.**

VIII. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 4:10 P.M.**

Signed:

**Matthew S. Petersen
Chairman of the Commission**

Attest:

**Darlene Harris
Acting Secretary of the Commission**

**Lisa Chapman
Office of the Commission Secretary**