



AGENDA DOCUMENT No. 10-56

**MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, AUGUST 26, 2010**

PRESENT:

Matthew S. Petersen, Chairman, presiding

Cynthia L. Bauerly, Vice Chair

Caroline C. Hunter, Commissioner

Donald F. McGahn II, Commissioner

Steven T. Walther, Commissioner¹

Ellen L. Weintraub, Commissioner

Alec Palmer, Acting Staff Director

Christopher Hughey, Acting General Counsel

Shawn Woodhead Werth, Secretary and Clerk

¹ Commissioner Walther was present for the discussion of items I through IV.

Chairman Matthew S. Petersen called the Federal Election Commission to order in an open meeting at 2:15 P.M. on Thursday, August 26, 2010, with a quorum present.

Chairman Petersen acknowledged the presence of several special visitors from the U.S. Army's Claims Service based in Fort Meade, Maryland. On behalf of the Commission, Chairman Petersen welcomed them and expressed his appreciation for the service they perform for the country.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for July 29, 2010
Agenda Document No. 10-51

Chairman Petersen recognized Vice Chair Bauerly, who

MOVED to approve the Minutes for the open meeting of Thursday, July 29, 2010, as set forth in Agenda Document No. 10-51.

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

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. 10-53, No. 10-54, No. 10-54-A and No. 10-55.

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

II. DRAFT ADVISORY OPINION 2010-14

**Democratic Senatorial Campaign Committee
by Marc E. Elias, Esq., and Jonathan S.
Berkon, Esq.**

**Agenda Document No. 10-53
(Submitted Late)**

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 proposed disbursement and allocation of Democratic Senatorial Campaign Committee recount funds for certain types of recount expenses it will incur before the date of the upcoming general election.

Chairman Petersen recognized Commissioner Walther, who

MOVED to adopt Draft Advisory Opinion 2010-14, as set forth in Agenda Document No. 10-53, and authorize staff to make any technical and conforming amendments.

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

III. DRAFT ADVISORY OPINION 2010-15

**Pike for Congress by Brian G. Svoboda, Esq.,
and Jonathan S. Berkon, Esq.**

Agenda Document No. 10-52

Chairman Petersen recognized Ms. Joanna Waldstreicher 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

Committee's refund of two contributions the candidate made to the Committee.

**Chairman Petersen recognized Vice Chair Bauerly, who
MOVED to adopt Draft Advisory Opinion 2010-15, as
set forth in Agenda Document No. 10-52, and
authorize the Office of General Counsel to make any
technical and conforming amendments.**

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

**IV. DRAFT FINAL RULES AND EXPLANATION AND JUSTIFICATION –
COORDINATED COMMUNICATIONS**

**Agenda Documents No. 10-54 and 10-54-A
(Submitted Late)**

**Chairman Petersen recognized Ms. Jessica Selinkoff of the
General Counsel's Office who presented Agenda Document No. 10-54.**

**Chairman Petersen recognized Commissioner Weintraub, who
MOVED to approve Agenda Document No. 10-54-A
and direct the staff to revise the Explanation and
Justification.**

**The motion failed on a vote of 3-3 with Commissioners Bauerly,
Walther and Weintraub voting affirmatively for the decision and
Commissioners Hunter, McGahn and Petersen dissenting.**

**Chairman Petersen recognized Commissioner Hunter, who
MOVED to approve the rule text at
11 C.F.R. §§ 109.21(d)(4)(ii) and 109.21(d)(5)(i) as set
forth on page 58 of Agenda Document No. 10-54,
adopt the Explanation and Justification for this rule
text set forth from pages 39-47 of Agenda Document**

No. 10-54 under heading IV entitled Coordinated Communications Conduct Prong – Common Vendor and Former Employee Standards, direct staff to convey this material to the *Federal Register*, and authorize staff to make technical and conforming amendments as required.

The motion carried on a vote of 4-2 with Commissioners Bauerly, Hunter, McGahn and Petersen voting affirmatively and Commissioners Walther and Weintraub dissenting.

Chairman Petersen recognized Commissioner Walther, who

MOVED to approve the rule text of 11 C.F.R. § 109.21(i) as set forth on page 59 of Agenda Document No. 10-54, adopt the Explanation and Justification for this rule text set forth from pages 47-50 of Agenda Document No. 10-54 under heading V entitled Safe Harbor for Certain Business and Commercial Communications, direct staff to convey this material to the *Federal Register*, and authorize staff to make technical and conforming amendments as required.

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

Chairman Petersen recognized Commissioner Hunter, who

MOVED to approve the rule text of 11 C.F.R. §§ 109.21(c) and 109.21(i) as set forth on page 57 of Agenda Document No. 10-54, adopt the Explanation and Justification for this rule text set forth on pages 1-39 and 51-55 in Agenda Document No. 10-54, direct staff to convey this information to the *Federal Register*, and authorize staff to make technical and conforming amendments.

The motion carried on a vote of 5-1 with Commissioners Bauerly, Hunter, McGahn, Petersen and Weintraub voting affirmatively, and Commissioner Walther dissenting.

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The meeting recessed at 3:20 P.M. and reconvened at 3:39 P.M. with a quorum present.

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V. DRAFT FINAL RULES AND EXPLANATION AND JUSTIFICATION FOR DEFINITION OF FEDERAL ELECTION ACTIVITY

**Agenda Document No. 10-55
(Submitted Late)**

Chairman Petersen recognized Mr. David Adkins of the General Counsel's Office who presented Agenda Document No. 10-55.

Chairman Petersen recognized Commissioner Weintraub, who

MOVED to approve Agenda Document No. 10-55, direct the Office of General Counsel to arrange for publication in the Federal Register, and authorize staff to make any technical and confirming amendments that may be necessary.

The motion carried on a vote of 5-0 with Commissioners Bauerly, Hunter, McGahn, Petersen and Weintraub voting affirmatively.

VI. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission, the meeting adjourned at 4:01 P.M.

Signed:

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

Attest:

**Shawn Woodhead Werth
Secretary and Clerk of the Commission**