



AGENDA DOCUMENT NO. 15-43-A
APPROVED AUGUST 11, 2015

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, JULY 16, 2015

PRESENT:

Ann M. Ravel, Chair, presiding

Matthew S. Petersen, Vice Chairman

Lee E. Goodman, Commissioner

Caroline C. Hunter, Commissioner

Steven T. Walther, Commissioner¹

Ellen L. Weintraub, Commissioner

Alec Palmer, Staff Director

Lisa J. Stevenson, Deputy General Counsel - Law

Shawn Woodhead Werth, Secretary and Clerk

¹ Commissioner Walther departed the meeting during the discussion of Items X and XI and rejoined the meeting for Item XIII.

Chair Ann M. Ravel called the Federal Election Commission to order in an open meeting at 10:25 A.M. on Thursday, July 16, 2015 with a quorum present.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider Agenda Document Nos. 15-40-A, 15-38-A, 15-39-A, 15-37-A, 15-41-A, and 15-42-A.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

Chair Ravel recognized Vice Chairman Petersen who

MOVED that the Commission add to the agenda consideration of the Motion to Set Priorities and Scheduling on Pending Enforcement Matters Awaiting Reason-to-Believe Consideration and that the Commission determine, pursuant to 11 C.F.R. § 2.7(d), that business so requires and no earlier public announcement was possible.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

I. CORRECTION AND APPROVAL OF MINUTES

**Minutes for June 18, 2015
Agenda Document No. 15-34-A**

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve the minutes for the meeting held on June 18, 2015 as set forth in Agenda Document No. 15-34-A.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

II. DRAFT ADVISORY OPINION 2015-02

**Grand Trunk Western Railroad Company – Illinois Central
Railroad Company Political Action Committee
by Michael J. Barron, Jr., Esq.**

**Agenda Document No. 15-40-A (Draft A)
(Submitted Late)**

Chair Ravel recognized Mr. Barron, the requestor's counsel, who was available via telephone to answer Commissioners' questions.

Chair Ravel recognized Mr. Theodore Lutz 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, and the Commission regulations to the request of the Grand Trunk Western Railroad Company – Illinois Central Railroad Company Political Action Committee, a separate segregated fund. The requestor asks whether contributions made to it may be matched with donations to a Canadian registered charity. Mr. Lutz asked for authority to make technical and conforming changes should the Commission approve the Draft.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve Agenda Document No. 15-40-A, Draft A, for the Grand Trunk Western Railroad Company – Illinois Central Railroad Company Political Action Committee and authorize the Office of the General Counsel to make any technical and conforming edits that may be required.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

III. DRAFT ADVISORY OPINION 2015-03

Democracy Rules, Inc. by Ray Cashman, Executive Director

**Agenda Document No. 15-38-A (Draft A)
(Submitted Late)**

Chair Ravel recognized Mr. Cashman, the requestor's representative, who was available via telephone to answer Commissioners' questions.

Chair Ravel 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, and the Commission regulations to the request of Democracy Rules, Inc. which asks whether it may transmit contributions to federal candidates on behalf of its members. The requestor established a website that enables its members to vote for the most important issues and their positions on the issues. The website also allows members to pledge funds to support advocacy groups or the reelection of legislators who the requestor considers best positioned to advance the members' interests on a

particular issue. Mr. Buckley asked for authority to make any necessary and conforming changes should the Commission approve the Draft.

Mr. Cashman participated in the discussion followed.

In response to Chair Ravel's question concerning additional time to supplement the request, Mr. Buckley stated that because the response period expires on August 4, 2015, Mr. Cashman's submission of supplemental information and approval of a 30 day extension will give the Commission sufficient time to respond to the request.

Discussion continued.

Chair Ravel stated that this matter would be taken up at a future meeting.

IV. DRAFT ADVISORY OPINION 2015-04

Collective Actions PAC by Chris Pearson, Chair

**Agenda Document No. 15-39-A (Draft A)
(Submitted Late)**

Chair Ravel recognized Mr. Pearson, the requestor's representative, who was available via telephone to answer Commissioners' questions.

Chair Ravel recognized Mr. Gabriel Panek 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, and the Commission regulations to the request of Collective Actions PAC, a non-connected political action committee. The requestor asks whether it may include the name of Senator

Bernard Sanders, a candidate for the Democratic Party nomination for president, in the name of a website or social media page operated by the Committee if such website or social media page does not solicit any contributions. Mr. Panek asked for authority to make any technical and conforming changes should the Commission approve the Draft.

Mr. Adav Noti of the General Counsel's Office participated in the discussion that followed.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve Agenda Document No. 15-39-A, Draft A, and authorize the Office of the General Counsel to make any technical and conforming edits that may be necessary.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

Chair Ravel stated that the agenda would be re-ordered and Item XII (Revised Meeting Dates for September – December 2015) would be considered next.

XII. REVISED MEETING DATES FOR SEPTEMBER – DECEMBER 2015

Memorandum from Chair Ann M. Ravel dated July 15, 2015

**Agenda Document No. 15-42-A
(Submitted Late)**

Chair Ravel stated that when she became Chair, the Commission scheduled fewer Executive Sessions each month, but because they were multiple day sessions, the Commission actually met on more days. She compared the number of matters resolved in meetings and on tally during 2015 with those resolved last year. She explained that while the current meeting approach has proven successful and productive, more meetings will be required to handle the pending caseload, and she asked her colleagues for flexibility in adding additional meeting dates to this year's calendar.

Discussion followed.

Chair Ravel recognized Vice Chairman Petersen who

**MOVED to approve the Revised Meeting Dates for
September – December 2015 as set forth in Agenda
Document No. 15-42-A.**

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

V. PROPOSED DIRECTIVE 74 ON THE TIMELY RESOLUTION OF ENFORCEMENT MATTERS

**Memorandum from Commissioner Ellen L. Weintraub
dated May 18, 2015**

Agenda Document No. 15-25-B

(Held over from the meeting of June 18, 2015)

Chair Ravel recognized Commissioner Weintraub who stated that although she has received a counterproposal from her colleagues, she respects their

position that it is premature to discuss it publicly. Commissioner Weintraub explained that in the past the Commission voted on 72-hour and even 48-hour tally vote ballots; for those matters receiving objections, the Commission acted expeditiously on the General Counsel's recommendations. Now, however, she explained that matters routinely sit on Commissioners' desks for months and sometimes years without a decision on those recommendations. This does a disservice to everyone involved in the process and the outcome. She urged her colleagues to seriously consider her plan and whether this is a reasonable timeframe as civil enforcement of the law is a core Commission function. She expressed her appreciation to Vice Chairman Petersen for his patience in working with her on this matter.

Discussion followed.

Chair Ravel recognized Commissioner Weintraub who stated that she would bring this matter up again at a future open meeting.

VI. NOTICE TO RESPONDENTS OF INFORMATION SHARING BY THE COMMISSION

**Memorandum from Commissioner Lee E. Goodman
dated May 14, 2015**

Agenda Document No. 15-26-A

(Held over from the meeting of June 18, 2015)

Chair Ravel recognized Commissioner Goodman who stated that his policy has been under consideration for 2 months and has been discussed previously.

Having accommodated comments received from other Commissioners,

Commissioner Goodman

MOVED to approve Agenda Document No. 15-26-A, Notice to Respondents of Information Sharing by the Commission, with the following edits to the language appearing in Agenda Document No. 15-26-A to be included in the initial letter to respondents:

- 1. The first sentence will be moved to a footnote at the end of the second sentence.**
- 2. The phrase “can and does” in the second sentence will be changed to the word “may.”**

Discussion followed.

The Commission recessed at 11:40 A.M. and reconvened at 11:58 A.M.

with a quorum present.

VI. NOTICE TO RESPONDENTS OF INFORMATION SHARING BY THE COMMISSION (continued)

Chair Ravel recognized Commissioner Goodman who withdrew his motion to honor his colleagues' requests for additional time to consider this matter and requested that this matter be placed first on the agenda for the next open meeting following administrative matters and Advisory Opinions.

Chair Ravel stated that she would place it on the agenda first following the matters that need to be taken up at the next open meeting.

Discussion followed.

**VII. PROPOSED STATEMENT OF POLICY REGARDING THE PUBLIC
DISCLOSURE OF CLOSED ENFORCEMENT FILES**

**Memorandum from Commissioner Lee E. Goodman
dated May 14, 2015**

Agenda Document No. 15-27-A

(Held over from the meeting of June 18, 2015)

Chair Ravel recognized Commissioner Goodman who requested that this matter also be held over to the next open meeting because he has received differing views from 2 Commissioners and a recently forwarded memorandum on this topic from the General Counsel's Office.

Chair Ravel stated that this matter would be held over to the next meeting.

**VIII. POLICY ON THIRD-PARTY APPEARANCES BEFORE THE COMMISSION
TO DISCUSS ADVISORY OPINIONS**

**Agenda Document No. 15-37-A
(Submitted Late)**

Chair Ravel recognized Mr. Theodore Lutz of the General Counsel's Office who introduced this matter. He stated that the General Counsel's Office was asked at the May 21, 2015 meeting to assess how and whether the public could participate in the Commission's consideration of Advisory Opinions at open meetings. This document summarizes existing Advisory Opinion procedures, identifies potential benefits and drawbacks of allowing third-parties to appear before the Commission at open meetings, and outlines a proposed procedure for such appearances should the Commission allow them.

Chair Ravel stated that she was the initiating force behind this proposal and explained that the Commission's deliberations would be greatly aided by the ability of third-parties to provide information and to participate in the discussion of the legal issues in Advisory Opinion requests. She noted that greater transparency of the Commission's work and public participation are important and that the Commission, in the interest of making more well-considered decisions, should support it.

Discussion followed.

Chair Ravel recognized Commissioner Weintraub who

MOVED to direct the Office of General Counsel to draft a revised policy in accordance with its proposed procedures and the meeting discussion and that incorporates a 1-year trial period with an automatic sunset provision.

Discussion continued.

The motion failed by a vote of 2-4 with Commissioners Ravel and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, Petersen, and Walther dissented.

IX. DRAFT NOTICE OF DISPOSITION ON REG 2014-06 (CANDIDATE DEBATES)

Chair Ravel recognized Mr. Robert Knop of the General Counsel's Office who summarized the Petition received on September 11, 2014 from Level the Playing Field. The petitioner asked the Commission to open a rulemaking to revise its regulations concerning the selection criteria used to determine participation in

candidate debates by debate sponsors. A Notice of Availability was published in the Federal Register on November 14, 2014 with information on how to obtain a copy of the petition and sought comment. The Commission received almost 1,260 comments; the next step is for the Commission to decide whether or not to open a rulemaking in response to the petition.

Discussion followed.

Chair Ravel recognized Commissioner Weintraub who

MOVED to open a rulemaking and direct the Office of General Counsel to draft a notice of proposed rulemaking in response to the petition for rulemaking filed on September 11, 2014 by Alexander Shapiro on behalf of Level the Playing Field.

The motion failed by a vote of 2-4 with Commissioners Ravel and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, Petersen, and Walther dissented.

Mr. Noti of the General Counsel's Office participated in the discussion that continued.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to direct the Office of the General Counsel to draft a notice of disposition that reflects the views of the Commissioners who voted not to proceed with the rulemaking.

The motion carried by a vote of 4–2 with Commissioners Goodman, Hunter, Petersen, and Walther voting affirmatively for the decision. Commissioners Ravel and Weintraub dissented.

X. DRAFT NOTICE OF AVAILABILITY ON REG 2015-03 (CONTRIBUTIONS FROM CORPORATIONS AND OTHER ORGANIZATIONS TO POLITICAL COMMITTEES)

Agenda Document No. 15-36-A

Chair Ravel recognized Mr. Sean Wright of the General Counsel’s Office who presented the Draft Notice of Availability in response to a petition for rulemaking submitted by Make Your Laws PAC, Inc. and Make Your Laws Advocacy, Inc. The petition asks the Commission to establish a new rule requiring that any person, other than a natural person, contributing an aggregate of more than \$1,000 in any calendar year to any political committee, whether directly or indirectly, must do so from an account subject to certain reporting requirements. The petition specifically asks the Commission to require that these accounts disclose the original source of all election-related contributions and expenditures, traceable through all intermediary entities to a natural person, regardless of the amounts or entities involved. The Draft Notice seeks comment on the petition and provides instructions to the public on how to do so. Mr. Wright requested authority to make any technical and conforming changes if the Commission approves the Draft Notice.

Mr. Noti participated in the discussion that followed.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve Agenda Document No. 15-36-A except to change the comment period from 60 to 90 days and authorize the Office of General Counsel to make any technical and conforming edits that may be required.

Discussion continued.

The motion carried by a vote of 6–0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.²

XI. DRAFT NOTICE OF AVAILABILITY ON REG 2015-04 (INDEPENDENT SPENDING BY CORPORATIONS, LABOR ORGANIZATIONS, FOREIGN NATIONALS, AND CERTAIN POLITICAL COMMITTEES)

Agenda Document No. 15-35-A

Chair Ravel recognized Ms. Esther Gyory of the General Counsel's Office who presented the Draft Notice of Availability in response to 2 petitions of rulemaking submitted by Make Your Laws PAC, Inc. and Make Your Laws Advocacy, Inc. and Craig Holman and Public Citizen. The petitions ask the Commission to issue new rules and revise existing rules concerning: 1) disclosure of financing information regarding independent expenditures and electioneering communications; 2) election-related spending by foreign nationals; 3) solicitations of corporate and labor organization employees and members; and 4) the independence of expenditures made by independent-expenditure-only political committees and accounts. The Draft Notice seeks comment on the petitions and

² Commissioner Walther's vote was recorded in accordance with Directive 10, Paragraph H.

provides instructions to the public on how to do so. Ms. Gyory requested authority to make any necessary technical and conforming changes if the Commission approves a Draft Notice.

Discussion followed.

Chair Ravel recognized Vice Chairman Petersen who

MOVED to approve Agenda Document No. 15-35-A except to change the comment period from 60 to 90 days and authorize the Office of General Counsel to make any technical and conforming edits that may be required.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.³

XIII. MOTION TO SET PRIORITIES AND SCHEDULING ON PENDING ENFORCEMENT MATTERS AWAITING REASON-TO-BELIEVE CONSIDERATION

**Memorandum from Commissioner Steven T. Walther
dated July 14, 2015**

**Agenda Document No. 15-41-A
(Submitted Late)**

Chair Ravel recognized Commissioner Walther who presented his proposal which concerns the disposition of the 73 cases currently pending before the Commission, some for as long as 3 years. He proposes that the Commission prioritize these cases based on age (without interfering with statute-of-limitation sensitive cases or potential parallel criminal matters), then commit to a timeline

³ Commissioner Walther's vote was recorded in accordance with Directive 10, Paragraph H.

to dispose of them by perhaps meeting as frequently as twice a week. He noted that the failure to quickly resolve cases impacts the public, respondents, complainants, and Commission staff.

Discussion followed.

Chair Ravel recognized Commissioner Walther who

MOVED to take the following actions:

- 1. That all matters identified in the attached chart as numbers one (1) through twenty-three (23), which have been awaiting Commission action for one year or more *since the date OGC circulated its recommendations as of June 30, 2015*, be placed on the agenda for the next executive session and every consecutive executive session thereafter until substantive action has been taken on each one of them.**

- 2. That the forty (40) matters following number twenty-three (23) in the attached chart that have been awaiting Commission action for one year or more *since the date of receipt of the complaint or referral* be placed before the Commission by having the same placed on the agenda for the next executive session (to trail immediately following the actions identified in Paragraph 1) and every consecutive session thereafter until substantive action has been taken on each of them. These matters are listed *based on age as of June 30, 2015* (and grouped by number of years) as follows: matters pending three years or more since the date of receipt of the complaint or referral, identified in the attached chart as items 24 and 29; matters pending two years or more but less than three years, identified in the attached chart as items 28, 61, 32, 30, 25, and 31; and matters pending one year or more but less than two years, identified in the attached chart as items 27, 42, 35, 26, 40, 50, 43, 44, 45, 48, 33, 36, 53, 49, 38, 34, 39, 46, 41, 37, 51, 54, 56, 52, 57, 55, 47, 59, 60, 58, 65 and 72.**

- 3. That the Chair call a sufficient number of meetings, beginning immediately, such that consideration of each of the matters identified in Paragraphs 1 and 2 of the attached chart shall be discussed and voted upon with substantive action taken by September 30, 2015, which is the end of the FEC's fiscal year.**
- 4. That all matters identified in Paragraphs 1 and 2 in the attached chart, once placed on the agenda, shall remain without change in priority, unless and until, as to any such matter or matters, the procedure set forth in Directive 10, Section E.7(e) is followed.**
- 5. That all remaining matters identified in the attached chart be considered immediately after the Commission takes substantive action on each of the matters identified in Paragraphs 1 and 2, to be voted upon with substantive action taken as of November 30, 2015.**

Discussion continued.

The motion failed by a vote of 2-4 with Commissioners Walther and Weintraub voting affirmatively for the motion. Commissioners Goodman, Hunter, Petersen, and Ravel dissented.

XIV. MANAGEMENT AND ADMINISTRATIVE MATTERS

**There being no further business to come before the Commission,
the meeting adjourned at 1:40 P.M.**

Signed:



Ann M. Ravel

Chair of the Commission

Attest:



Shawn Woodhead Werth

Secretary and Clerk of the Commission